

Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007

PART II

INTERNAL MARKET

TITLE I

MARKET INTERVENTION

CHAPTER I

Public intervention and aid for private storage

Section 1

General provisions on public intervention and aid for private storage

Article 8

Scope

This Chapter lays down rules on market intervention concerning:

- (a) public intervention, where products are bought in by the competent authorities of the Member States and stored by them until disposed of; and
- (b) granting of aid for the storage of products by private operators.

Article 9

Origin of eligible products

Products eligible for buying-in under public intervention or for the granting of aid for private storage shall originate in the Union. In addition, if they come from crops, those crops shall have been harvested in the Union, and if they come from milk, that milk shall have been produced in the Union.

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Article 10

Union scales for the classification of carcasses

Union scales for the classification of carcasses shall apply in accordance with, respectively, points A and B of Annex IV in the beef and veal sector as regards carcasses of bovine animals aged eight months or more and in the pigmeat sector as regards pigs other than those that have been used for breeding.

In the sheepmeat and goatmeat sector, Member States may apply a Union scale for the classification of sheep carcasses in accordance with the rules laid down in point C of Annex IV.

Section 2

Public intervention

Article 11

Products eligible for public intervention

Public intervention shall apply in respect of the following products in accordance with the conditions laid down in this Section and any additional requirements and conditions that may be determined by the Commission, by means of delegated acts pursuant to Article 19 and implementing acts pursuant to Article 20:

- (a) common wheat, durum wheat, barley and maize;
- (b) paddy rice;
- (c) fresh or chilled meat of the beef and veal sector falling within CN codes 0201 10 00 and 0201 20 20 to 0201 20 50;
- (d) butter produced directly and exclusively from pasteurised cream obtained directly and exclusively from cow's milk in an approved undertaking in the Union of a minimum butterfat content, by weight, of 82 % and of a maximum water content, by weight, of 16 %;
- (e) skimmed milk powder of top quality made from cow's milk in an approved undertaking in the Union by the spray process, with a minimum protein content of 34,0 % by weight of the fat free dry matter.

Article 12

Public intervention periods

Public intervention shall be available for:

- (a) common wheat, durum wheat, barley and maize, from 1 November to 31 May;
- (b) paddy rice, from 1 April to 31 July;

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- (c) beef and veal, throughout the year;
- (d) butter and skimmed milk powder, from 1 March to 30 September.

Article 13

Opening and closing of public intervention

- 1 During the periods referred to in Article 11, public intervention:
 - a shall be open for common wheat, butter and skimmed milk powder;
 - b may be opened by the Commission, by means of implementing acts, for durum wheat, barley, maize and paddy rice (including specific varieties or types of paddy rice), if the market situation so requires. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2);
 - c may be opened for the beef and veal sector by the Commission, by means of implementing acts adopted without applying the procedure referred to in Article 229(2) or (3), if, over a representative period determined pursuant to point (c) of the first paragraph of Article 20 the average market price in a Member State or in a region of a Member State, recorded on the basis of the Union scale for the classification of carcasses of bovine animals referred to in point A of Annex IV, is below 85 % of the reference threshold laid down in point (d) of Article 7(1).
- 2 The Commission may adopt implementing acts closing public intervention for the beef and veal sector where, over a representative period determined pursuant to point (c) of the first paragraph of Article 20, the conditions provided for in point (c) of paragraph 1 of this Article are no longer fulfilled. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

Article 14

Buying-in at a fixed price or tendering

Where public intervention is open pursuant to Article 13(1), measures on fixing buying-in prices for the products referred to in Article 11 as well as, where applicable, measures on quantitative limitations where buying-in is carried out at a fixed price, shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 15

Public intervention price

- 1 Public intervention price means:
 - a the price at which products shall be bought in under public intervention where this is done at a fixed price; or
 - b the maximum price at which products eligible for public intervention may be bought in where this is done by tendering.
- 2 The measures on fixing the level of the public intervention price, including the amounts of increases and reductions, shall be taken by the Council in accordance with Article 43(3) TFEU.

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Article 16

General principles on disposal from public intervention

1 Disposal of products bought in under public intervention shall take place in such a way as to:

- a avoid any disturbance of the market,
- b ensure equal access to goods and equal treatment of purchasers, and
- c be in compliance with the commitments resulting from international agreements concluded in accordance with the TFEU.

2 Products bought in under public intervention may be disposed of by making them available for the scheme for food distribution to the most deprived in the Union as set out in the relevant Union legal acts. In such cases, the accounting value of such products shall be at the level of the relevant fixed public intervention price referred to in Article 14(2) of this Regulation.

3 Each year the Commission shall publish details of the conditions under which products bought in under public intervention were sold in the previous year.

Section 3

Aid for private storage

Article 17

Eligible products

Aid for private storage may be granted in respect of the following products in accordance with the conditions set out in this Section and any further requirements and conditions to be adopted by the Commission, by means of delegated acts pursuant to Article 18(1) or Article 19 and implementing acts pursuant to Article 18(2) or Article 20:

- (a) white sugar;
- (b) olive oil;
- (c) flax fibre;
- (d) fresh or chilled meat of bovine animals aged eight months or more;
- (e) butter produced from cream obtained directly and exclusively from cow's milk;
- (f) cheese;
- (g) skimmed milk powder made from cow's milk;
- (h) pigmeat;
- (i) sheepmeat and goatmeat.

Point (f) of the first paragraph is restricted to cheese benefiting from a protected designation of origin or from a protected geographical indication under Regulation (EU) No 1151/2012 that is stored beyond the period of maturation laid down in the product

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specification for the product referred to in Article 7 of that Regulation and/or a period of maturation that contributes to increasing the value of the cheese.

Article 18

Conditions for granting aid

1 In order to provide for market transparency, the Commission shall, where necessary, be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which it may decide to grant private storage aid for the products listed in Article 17, taking into account:

- a average recorded Union market prices and the reference thresholds and production costs for the products concerned; and/or
- b the need to respond in a timely way to a particularly difficult market situation or economic developments having a significant negative impact on the margins in the sector.

2 The Commission may adopt implementing acts

- a granting private storage aid for the products listed in Article 17, taking into account the conditions referred to in paragraph 1 of this Article;
- b restricting the granting of private storage aid.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

3 Measures on fixing the amount of aid for private storage provided for in Article 17 shall be taken by the Council in accordance with Article 43(3) TFEU.

Section 4

Common provisions on public intervention and aid for private storage

Article 19

Delegated powers

1 In order to ensure that products bought in under public intervention or subject to aid for private storage are suitable for long-term storage and are of sound, fair and marketable quality, and in order to take into account the specific characteristics of the different sectors for the purposes of ensuring the cost-effective operation of public intervention and private storage, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the requirements and conditions to be met by those products, in addition to the requirements laid down in this Regulation. Those requirements and conditions shall aim to guarantee, for the products bought in and stored:

- a their quality with respect to quality parameters, quality groups, quality grades, categories, product characteristics and age;
- b their eligibility with respect to quantities, packaging including labelling, preservation, previous storage contracts, approval of undertakings and the stage of the products to which the public intervention price and the aid for private storage applies.

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2 In order to take account of the specific characteristics of the cereals and paddy rice sectors, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the quality criteria as regards both buying-in and sales of common wheat, durum wheat, barley, maize and paddy rice.

3 In order to ensure appropriate storage capacity and the efficiency of the public intervention system in terms of cost-effectiveness, distribution and access for operators, and in order to maintain the quality of products bought in under public intervention for their disposal at the end of the storage period, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- a the requirements to be fulfilled by storage places for all products subject to public intervention;
- b rules on the storage of products inside and outside the Member State responsible for them and for the treatment of such products as regards customs duties and any other amounts to be granted or levied under the CAP.

4 In order to ensure that aid for private storage has the desired effect on the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- a rules and conditions applicable where the quantity stored is lower than the contracted quantity;
- b the conditions for granting an advance payment of such aid;
- c the conditions under which it may be decided that products covered by private storage contracts may be re-marketed or disposed of.

5 In order to ensure the proper functioning of the public intervention and private storage systems, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- a providing for the use of tendering procedures guaranteeing equal access to goods and equal treatment of operators;
- b laying down the additional conditions to be fulfilled by operators in order to facilitate the effective management and control of the system for Member States and operators;
- c laying down the requirement for operators to lodge a security guaranteeing the fulfilment of their obligations.

6 In order to take account of technical developments and of the needs of sectors referred to in Article 10, as well as of the need to standardise the presentation of the different products for the purposes of improving market transparency, price recording and the application of the market intervention measures, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- a adapting and updating the provisions of Annex IV on the Union scales for the classification, identification and presentation of carcasses;
- b laying down supplementary provisions relating to classification, including by qualified classifiers, to grading, including by automated grading techniques, to identification, weighing and marking of carcasses and to the calculation of average Union prices and to the weighting coefficients used in the calculation of those prices;
- c laying down, in the beef and veal sector, derogations from provisions and specific derogations which may be granted by Member States to slaughterhouses in which few bovine animals are slaughtered, and additional provisions for the products concerned, including regarding the classes of conformation and fat cover and, in sheepmeat sector, further provisions as regards weight, colour of meat and fat cover and the criteria for the classification of light lambs;

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- d providing Member States with the authorisation not to apply the grading scale for classification of pig carcasses and the authorisation to use assessment criteria in addition to weight and estimated lean-meat content, or laying down derogations from that scale.

Article 20

Implementing powers in accordance with the examination procedure

The Commission shall adopt implementing acts laying down the measures necessary for the uniform application of this Chapter. Those measures may, in particular, concern the following:

- (a) the costs payable by the operator where products delivered for public intervention do not meet the minimum quality requirements;
- (b) the fixing of minimum storage capacity for intervention storage places;
- (c) the representative periods, markets, and market prices necessary for the application of this Chapter;
- (d) the delivery of the products to be bought in under public intervention, the transport costs to be borne by the offerer, the taking over of the products by paying agencies and the payment;
- (e) the different operations connected with the boning process for the beef and veal sector;
- (f) the practical arrangements for the packaging, marketing and labelling of products;
- (g) the procedures for the approval of undertakings producing butter and skimmed milk powder for the purposes of this Chapter;
- (h) any authorisation of storage outside the territory of the Member State where the products have been bought in and stored;
- (i) the sale or disposal of products bought in under public intervention, regarding, in particular, selling prices, the conditions for removal from storage, the subsequent use or destination of products released, including procedures relating to products made available for use in the scheme referred to in Article 16(2), including transfers between Member States;
- (j) in respect of products bought in under public intervention, the provisions relating to the possibility for Member States to sell, at their own responsibility, small quantities remaining in storage or quantities which may no longer be repackaged or which have deteriorated;
- (k) in respect of private storage, the conclusion and the content of contracts between the competent authority of the Member State and the applicants;
- (l) the placing and keeping of products in private storage and their removal from storage;
- (m) the duration of the private storage period and the provisions according to which such periods, once specified in the contracts, may be curtailed or extended;
- (n) the procedures to be followed for buying-in at a fixed price, including the procedures for, and the amount of, the security to be lodged, or for the granting of aid fixed in advance for private storage;

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- (o) the use of tendering procedures, both for public intervention and for private storage, in particular as regards:
 - (i) the submission of offers or tenders and the minimum quantity for an application or submission;
 - (ii) the procedures for, and the amount of, the security to be lodged; and
 - (iii) the selection of offers ensuring that preference is given to those which are most favourable to the Union whilst permitting that the award of a contract does not necessarily ensue;
- (p) the implementation of Union scales for the classification of beef, pig and sheep carcasses;
- (q) a different presentation of carcasses and half carcasses than the one laid down in point A.IV of Annex IV for the purpose of establishing market prices;
- (r) the corrective factors to be applied by Member States to be used for a different presentation of beef and sheep carcasses where the reference presentation is not used;
- (s) the practical arrangements for the marking of classified carcasses and for the calculation by the Commission of the weighted average Union price for beef, pig and sheep carcasses;
- (t) the authorisation of Member States to provide, with regard to pigs slaughtered in their territory, for a different presentation of pig carcasses than the one laid down in point B.III of Annex IV, if one of the following conditions is fulfilled:
 - (i) normal commercial practice in their territory differs from the standard presentation defined in the first subparagraph of point B.III of Annex IV;
 - (ii) technical requirements warrant it;
 - (iii) carcasses are dehided in a uniform manner;
- (u) the provisions for the on-the-spot review of the application of classification of carcasses in Member States by a Union committee composed of experts from the Commission and experts appointed by Member States in order to ensure the accuracy and reliability of the classification of carcasses. Those provisions shall provide for the Union to bear the costs resulting from the review activity.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 21

Other implementing powers

The Commission shall adopt implementing acts in order to authorise Member States to use for lambs of less than 13 kg carcass weight, by way of derogation from point C.III of Annex IV, the following criteria for classification:

- (a) carcass weight;
- (b) colour of meat;
- (c) fat cover.

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Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

CHAPTER II

Aid schemes

Section 1

Schemes to improve access to food

Article 22

Target group

Aid schemes intended to improve the distribution of agricultural products and improving children's eating habits are aimed at children who regularly attend nurseries, pre-schools or primary or secondary-level educational establishments which are administered or recognised by the competent authorities of Member States.

Subsection 1

School fruit and vegetables scheme

Article 23

Aid for the supply of fruit and vegetables, processed fruit and vegetables and banana products to children

- 1 Union aid shall be granted for:
 - a the supply to children in the educational establishments referred to in Article 22 of products of the fruit and vegetables, processed fruit and vegetables, and bananas sectors; and
 - b certain related costs linked to logistics and distribution, equipment, publicity, monitoring, evaluation and accompanying measures.
- 2 Member States wishing to participate in the scheme shall draw up, at national or regional level, a prior strategy for its implementation. They shall also provide for the accompanying measures necessary to make the scheme effective, which may include information on measures for education about healthy eating habits, about local food chains and about combating food wastage.
- 3 When drawing up their strategies, Member States shall draw up a list of products of the fruit and vegetables, processed fruit and vegetables, and bananas sectors that will be eligible under their respective schemes. This list shall not include products that are listed in Annex V.

However, in duly justified cases, such as where a Member State wants to ensure a broad assortment of products under its scheme or wants to make its scheme more attractive, its

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strategy may provide that such products may become eligible if only limited amounts of the substances referred to in that Annex are added.

Member States shall ensure that their competent health authorities endorse the list of such products that are eligible under their scheme.

Member States shall choose their products on the basis of objective criteria which may include health and environmental considerations, seasonality, variety or availability of produce, giving priority, as far as practicable, to products originating in the Union, and particularly to local purchasing, local markets, short supply chains or environmental benefits.

4 Measures on fixing the Union aid referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

5 The Union aid referred to in paragraph 1 shall be allocated to each Member State on the basis of objective criteria based on their proportion of six- to ten-year old children.

Member States participating in the scheme shall apply every year for Union aid on the basis of their strategy referred to in paragraph 2.

Measures on fixing the minimum amount of Union aid for each Member State participating in the scheme and on the indicative and definitive allocations of aid to Member States shall be taken by the Council in accordance with Article 43(3) TFEU.

6 Union aid provided for in paragraph 1 shall not be used to replace funding for any existing national school fruit schemes providing fruit and vegetables, processed fruit and vegetables, and bananas or other school distribution schemes that include such products.

However, if a Member State already has a scheme in place that would be eligible for Union aid under this Article and intends to extend it or make it more effective, including as regards the target group of the scheme, its duration or eligible products, Union aid may be granted provided that the limits set out in accordance with Article 43(3) TFEU are respected as regards the proportion of Union aid to the total national contribution. In such a case, the Member State shall indicate in its implementation strategy how it intends to extend its scheme or make it more effective.

7 Member States may, in addition to Union aid, grant national aid in accordance with Article 217.

8 The Union school fruit and vegetables scheme shall be without prejudice to any separate national school fruit and vegetables schemes which are compatible with Union law.

9 The Union may also finance, under Article 6 of Regulation (EU) No 1306/2013, information, monitoring and evaluation measures relating to the school fruit and vegetables scheme, including measures raising public awareness of it, and related networking measures.

10 Member States participating in the scheme shall publicise, at the places where the food is distributed, their involvement in the aid scheme and the fact that it is subsidised by the Union.

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Article 24

Delegated powers

1 In order to promote the healthy eating habits of children and to ensure that the aid is aimed at children in the target group referred to in Article 22, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on:

- a the additional criteria related to the targeting of aid by Member States;
- b the approval and selection of aid applicants by Member States;
- c the drawing-up of the national or regional strategies and on accompanying measures.

2 In order to ensure the efficient and targeted use of Union funds, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- a the method for reallocating the indicative allocation of aid referred to in Article 23(5) between Member States on the basis of requests for aid received;
- b the costs in Member States' strategies that are eligible for Union aid and the possibility of fixing an overall ceiling for specific costs;
- c the obligation for Member States to monitor and evaluate the effectiveness of their school fruit and vegetables schemes.

3 In order to promote awareness of the scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 requiring Member States with a school fruit and vegetables scheme to publicise the subsidising role of the Union aid.

Article 25

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Subsection, including:

- (a) the information to be contained in Member States' strategies;
- (b) the aid applications and payments;
- (c) the methods of publicising, and networking measures in respect of, the scheme;
- (d) the submission, format and content of monitoring and evaluation reports by Member States participating in the Union school fruit and vegetables scheme.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

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Subsection 2

School milk scheme

Article 26

Aid for the supply of milk and milk products to children

1 Union aid shall be granted for supplying to children in educational establishments referred to in Article 22 certain milk and processed milk products falling within CN codes 0401, 0403, 0404 90 and 0406 or CN code 2202 90.

2 From 1 August 2015, Member States, at national or regional level, wishing to participate in the scheme shall have a prior strategy for its implementation. They may also provide for the accompanying measures, which may include information on measures for education about healthy eating habits, about local food chains and about combating food wastage, that are necessary to make the programme effective.

3 When drawing up their strategies, Member States shall draw up a list of milk and milk products that will be eligible under their respective schemes, in accordance with the rules adopted by the Commission pursuant to Article 27.

4 Except for free distribution of meals to children in educational establishments, Union aid referred to in paragraph 1 shall not be used to replace funding for any existing national milk and milk products schemes or other school distribution schemes that include milk or milk products. However, if a Member State already has a scheme in place that would be eligible for Union aid under this Article and intends to extend it or make it more effective, including as regards the target group of the scheme, its duration or eligible products, Union aid may be granted. In such a case, the Member State shall indicate in its implementation strategy how it intends to extend its scheme or make it more effective.

5 Member States may, in addition to Union aid, grant national aid in accordance with Article 217.

6 The Union school milk and milk products scheme shall be without prejudice to any separate national school schemes to encourage the consumption of milk and milk products that are compatible with Union law.

7 Measures on fixing the Union aid for all milk and milk products and the maximum quantity eligible for Union aid provided for in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

8 Member States participating in the scheme shall publicise, at the places where the food is distributed, their involvement in the aid scheme and the fact that it is subsidised by the Union.

Article 27

Delegated powers

1 In order to take into account the evolution in consumption patterns for dairy products, the innovations and developments on the dairy products market, the availability of products on the different markets of the Union, and nutritional aspects, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 determining:

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- a the products that are eligible for the scheme, in accordance with the provisions laid down in Article 26(1) and taking into account nutritional aspects;
- b the drawing up of the national or regional strategies by Member States, including accompanying measures where applicable; and
- c measures necessary for monitoring and evaluation.

2 In order to ensure the efficient and effective use of Union aid, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- a rules on the eligibility for the aid of beneficiaries and applicants;
- b the requirement for the applicants to be approved by the Member States;
- c the use of dairy products benefiting from the aid in the preparation of meals in educational establishments.

3 In order to ensure that aid applicants respect their obligations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the requirement to lodge a security where an advance of aid is paid.

4 In order to promote awareness of the aid scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 specifying the conditions in accordance with which Member States are to publicise their participation in the aid scheme and the fact that it is subsidised by the Union.

5 In order to ensure that the aid is reflected in the price at which the products are available under the scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down rules on the establishment of price monitoring under the scheme.

Article 28

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Subsection including on:

- (a) the procedures to ensure the respect of the maximum quantity eligible for the aid;
- (b) the procedures for, and the amount of, the security to be lodged where an advance payment is made;
- (c) the information to be supplied to Member States for approval of applicants, aid applications and payments;
- (d) the methods of publicising the scheme;
- (e) the management of price monitoring pursuant to Article 27(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

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Section 2

Aid in the olive oil and table olives sector

Article 29

Programmes to support the olive oil and table olives sector

1 The Union shall finance three-year work programmes to be drawn up by producer organisations recognised under Article 152, associations of producer organisations recognised under Article 156 or interbranch organisations recognised under Article 157 in one or more of the following areas:

- a market follow-up and management in the olive oil and table olives sector;
- b the improvement of the environmental impact of olive cultivation;
- c the improvement of the competitiveness of olive cultivation through modernisation;
- d the improvement of the production quality of olive oil and table olives;
- e the traceability system, the certification and protection of the quality of olive oil and table olives, in particular the monitoring of the quality of olive oils sold to final consumers, under the authority of the national administrations;
- f the dissemination of information on measures carried out by producer organisations, associations of producer organisations or interbranch organisations to improve the quality of olive oil and table olives.

2 The Union financing of the work programmes referred to in paragraph 1 shall be:

- a EUR 11 098 000 per year for Greece;
- b EUR 576 000 per year for France; and
- c EUR 35 991 000 per year for Italy.

3 The maximum Union funding for the work programmes referred to in paragraph 1 shall be equal to the amounts withheld by the Member States. The maximum funding of the eligible cost shall be:

- a 75 % for activities in the areas referred to in points (a), (b) and (c) of paragraph 1;
- b 75 % for fixed assets investments and 50 % for other activities in the area referred to in point (d) of paragraph 1;
- c 75 % for the work programmes carried out in at least three third countries or non-producing Member States by recognised organisations referred to in paragraph 1 from at least two producer Member States in the areas referred to in points (e) and (f) of paragraph 1, and 50 % for the other activities in these areas.

Complementary financing shall be ensured by the Member State up to 50 % of the costs not covered by the Union funding.

Article 30

Delegated powers

In order to ensure the efficient and effective use of the Union aid provided for in Article 29 and in order to improve the production quality of olive oil and table olives, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

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- (a) in respect of the areas referred to in Article 29(1), the specific measures that can be financed by the Union aid and the activities and costs that cannot be so financed;
- (b) the minimum allocation by Member States of Union financing to specific areas;
- (c) the requirement to lodge a security when an application for approval of a work programme is submitted and where an advance payment of aid is made;
- (d) the criteria to be taken into account by Member States in the selection and approval of work programmes.

Article 31

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Section concerning:

- (a) the implementation of work programmes and amendments to such programmes;
- (b) the payment of aid, including advance payments of aid;
- (c) the procedures for, and the amount of, the security to be lodged when an application for approval of a work programme is submitted and where an advance payment of aid is made.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 3

Aid in the fruit and vegetables sector

Article 32

Operational funds

1 Producer organisations in the fruit and vegetables sector and/or their associations may set up an operational fund. The fund shall be financed by:

- a financial contributions from:
 - (i) members of the producer organisation and/or the producer organisation itself;
or
 - (ii) associations of producer organisations through the members of those associations;
- b Union financial assistance, which may be granted to producer organisations, or to their associations where those associations present, manage and implement an operational programme or a partial operational programme, in accordance with the terms and conditions to be adopted by the Commission by means of delegated acts pursuant to Article 37 and implementing acts pursuant to Article 38.

2 Operational funds shall be used only to finance operational programmes that have been submitted to and approved by Member States.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 33

Operational programmes

1 Operational programmes in the fruit and vegetables sector shall have a minimum duration of three years and a maximum duration of five years. They shall have at least two of the objectives referred to in point (c) of Article 152(1) or two of the following objectives:

- a planning of production, including production and consumption forecasting and follow-up;
- b improvement of product quality, whether in a fresh or processed form;
- c boosting products' commercial value;
- d promotion of the products, whether in a fresh or processed form;
- e environmental measures, particularly those relating to water, and methods of production respecting the environment, including organic farming;
- f crisis prevention and management.

Operational programmes shall be submitted to the Member States for their approval.

2 Associations of producer organisations may also present an entire or partial operational programme composed of measures identified, but not carried out, by member organisations under their operational programmes. The operational programmes of associations of producer organisations shall be subject to the same rules as operational programmes of producer organisations and shall be considered with the operational programmes of member organisations.

To that end, the Member States shall ensure that:

- a measures under operational programmes of an association of producer organisations are entirely financed by contributions of those member organisations of that association and that such funding is collected from the operational funds of those member organisations;
- b the measures and their corresponding financial share are identified in the operational programme of each member organisation;
- c there is no duplication of funding.

3 Crisis prevention and management referred to in point (f) of the first subparagraph of paragraph 1 shall be related to avoiding and dealing with crises on the fruit and vegetable markets and shall cover in this context:

- a investments making the management of the volumes placed on the market more efficient;
- b training measures and exchanges of best practices;
- c promotion and communication, whether for prevention or during a crisis period;
- d support for the administrative costs of setting up mutual funds;
- e replanting of orchards where that is necessary following mandatory grubbing up for health or phytosanitary reasons on the instruction of the Member State competent authority;
- f market withdrawal;
- g green harvesting or non-harvesting of fruit and vegetables;
- h harvest insurance.

Status: Point in time view as at 17/12/2013.

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Support for harvest insurance shall contribute to safeguarding producers' incomes where there are losses as a consequence of natural disasters, adverse climatic events, diseases or pest infestations.

Insurance contracts shall require that beneficiaries undertake necessary risk prevention measures.

Crisis prevention and management measures, including any repayment of capital and interest as referred to in the fifth subparagraph, shall not comprise more than one third of the expenditure under the operational programme.

Producer organisations may take out loans on commercial terms for financing crisis prevention and management measures. In that case, the repayment of the capital and interest on those loans may form part of the operational programme and so may be eligible for Union financial assistance under Article 34. Any specific action under crisis prevention and management may be financed by such loans or directly, or both.

- 4 For the purposes of this Section:
- a "green harvesting" means the total harvesting on a given area of unripe non-marketable products which have not been damaged prior to the green harvesting, whether due to climatic reasons, disease or otherwise;
 - b "non-harvesting" means the termination of the current production cycle on the area concerned where the product is well developed and is of sound, fair and marketable quality. Destruction of products due to a climatic event or disease is not considered as non-harvesting.
- 5 Member States shall ensure that:
- a operational programmes include two or more environmental actions; or
 - b at least 10 % of the expenditure under operational programmes covers environmental actions.

Environmental actions shall respect the requirements for agri-environment-climate payments laid down in Article 28(3) of Regulation (EU) No 1305/2013.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment-climate commitments provided for in Article 28(3) of Regulation (EU) No 1305/2013, then each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph of this paragraph.

Support for the environmental actions referred to in the first subparagraph of this paragraph shall cover additional costs and income foregone resulting from the action.

- 6 Member States shall ensure that investments which increase environmental pressure shall only be permitted in situations where effective safeguards to protect the environment from these pressures are in place.

Article 34

Union financial assistance

- 1 The Union financial assistance shall be equal to the amount of the financial contributions referred to in point (a) of Article 32(1) actually paid and limited to 50 % of the actual expenditure incurred.

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2 The Union financial assistance shall be limited to 4,1 % of the value of the marketed production of each producer organisation or of their association.

However, in the case of producer organisations, that percentage may be increased to 4,6 % of the value of the marketed production, provided that the amount in excess of 4,1 % of the value of the marketed production is used solely for crisis prevention and management measures.

In the case of associations of producer organisations, that percentage may be increased to 4,7 % of the value of the marketed production, provided that the amount in excess of 4,1 % of the value of the marketed production is used solely for crisis prevention and management measures implemented by the association of producer organisations on behalf of its members.

3 At the request of a producer organisation, the 50 % limit provided for in paragraph 1 shall be increased to 60 % for an operational programme or part of an operational programme satisfying at least one of the following conditions:

- a it is submitted by several Union producer organisations operating in different Member States on transnational schemes;
- b it is submitted by one or more producer organisations engaged in schemes operated on an interbranch basis;
- c it covers solely specific support for the production of organic products covered by Council Regulation (EC) No 834/2007⁽¹⁾;
- d it is the first to be submitted by a recognised producer organisation which is the result of a merger between two recognised producer organisations;
- e it is the first to be submitted by a recognised association of producer organisations;
- f it is submitted by producer organisations in Member States where producer organisations market less than 20 % of fruit and vegetables production;
- g it is submitted by a producer organisation in one of the outermost regions referred to in Article 349 TFEU.

4 The 50 % limit provided for in paragraph 1 shall be increased to 100 % in the case of market withdrawals of fruit and vegetables which shall not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:

- a free distribution to charitable organisations and foundations, approved for that purpose by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence; or
- b free distribution to any of the following: penal institutions, schools, establishments referred to in Article 22, children's holiday camps, hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

Article 35

National financial assistance

1 In regions of the Member States where the degree of organisation of producers in the fruit and vegetables sector is particularly low, the Commission may adopt implementing acts authorising Member States, at their duly substantiated request, to pay producer organisations

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national financial assistance equal to a maximum of 80 % of the financial contributions referred to in point (a) of Article 32(1). This assistance shall be additional to the operational fund.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2 In regions of the Member States where producer organisations, associations of producer organisations and the producer groups referred to in Article 27 of Regulation (EU) No 1305/2013 market less than 15 % of the value of fruit and vegetable production of those regions, where fruit and vegetable production represents at least 15 % of the total agricultural output of those regions, the national financial assistance referred to in paragraph 1 of this Article may be reimbursed by the Union at the request of the Member State concerned.

The Commission shall adopt implementing acts concerning that reimbursement. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 36

National framework and national strategy for operational programmes

1 Member States shall establish a national framework containing general conditions relating to the environmental actions referred to in Article 33(5). That framework shall provide, in particular, that such actions are to meet the appropriate requirements of Regulation (EU) No 1305/2013, in particular those set out in Article 3 thereof.

Member States shall submit their proposed framework to the Commission which, by means of implementing acts adopted without applying the procedure referred to in Article 229(2) or (3), may within three months of the submission require modifications if it finds that the proposal would not contribute to the achievement of the objectives set out in Article 191 TFEU and in the seventh Union environment action programme. Investments on individual holdings supported by operational programmes shall also respect those objectives.

2 Each Member State shall establish a national strategy for sustainable operational programmes in the fruit and vegetable market. Such a strategy shall include:

- a an analysis of the situation in terms of strengths and weaknesses and the potential for development;
- b justification of the priorities chosen;
- c the objectives of operational programmes and instruments, and performance indicators;
- d assessment of operational programmes;
- e reporting obligations for producer organisations.

The national strategy shall also integrate the national framework referred to in paragraph 1.

3 Paragraphs 1 and 2 shall not apply to Member States which have no recognised producer organisations.

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Article 37

Delegated powers

In order to ensure an efficient, targeted and sustainable support of producer organisations and their associations in the fruit and vegetables sector, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing rules on:

- (a) operational funds and operational programmes, concerning:
 - (i) the estimated amounts, the decisions by producer organisations and their associations on the financial contributions and the use of operational funds;
 - (ii) the measures, actions, expenditure and administrative and personnel costs to be included or excluded under operational programmes, the modification thereof and the additional requirements to be determined by Member States;
 - (iii) the avoidance of double funding between operational programmes and rural development programmes;
 - (iv) operational programmes of associations of producer organisations;
 - (v) the specific rules applicable to cases in which associations of producer organisations manage, process, implement and present, wholly or in part, operational programmes;
 - (vi) the obligation to use common indicators for the purposes of monitoring and evaluation of operational programmes;
- (b) the national framework and national strategy for operational programmes concerning the obligation to monitor and evaluate the effectiveness of the national frameworks and the national strategies;
- (c) Union financial assistance, concerning:
 - (i) the basis for the calculation of Union financial assistance and of the value of the marketed production, referred to in Article 34(2);
 - (ii) applicable reference periods for the calculation of aid;
 - (iii) the provision of advance payments and the requirement to lodge a security where an advance payment of aid is made;
 - (iv) the specific rules applicable to the financing of operational programmes of associations of producer organisations, particularly those relating to the application of the limits provided for in Article 34(2);
- (d) crisis prevention and management measures, concerning:
 - (i) the possibility for Member States not to apply one or more crisis prevention and management measures;
 - (ii) conditions relating to points (a), (b) and (c) of the first subparagraph of Article 33(3);
 - (iii) permissible destinations to be decided by Member States for withdrawn products;

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- (iv) the maximum level of support for market withdrawals;
 - (v) the requirement for prior notifications in case of market withdrawals;
 - (vi) the basis of the calculation of the volume of marketed production for free distribution referred to in Article 34(4) and the determination of a maximum volume of marketed production in case of withdrawals;
 - (vii) the requirement to display the Union emblem on packages of products for free distribution;
 - (viii) the conditions for the recipients of withdrawn products;
 - (ix) the use of terms for the purposes of this Section;
 - (x) the conditions, to be adopted by Member States, relating to green harvesting and non-harvesting;
 - (xi) harvest insurance;
 - (xii) mutual funds; and
 - (xiii) the conditions relating to, and the fixing of a ceiling for expenditure on, the replanting of orchards for health or phytosanitary reasons in accordance with point (e) of the first subparagraph of Article 33(3);
- (e) national financial assistance, concerning:
- (i) the degree of organisation of producers;
 - (ii) the requirement to lodge a security where an advance payment is made;
 - (iii) the maximum proportion of Union reimbursement of the national financial assistance.

Article 38

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down measures concerning:

- (a) the management of operational funds;
- (b) the information to be contained in operational programmes, national frameworks and national strategies referred to in Article 36, the submission of operational programmes to Member States, time limits, accompanying documents and approval by Member States;
- (c) the implementation of operational programmes by producer organisations and associations of producer organisations;
- (d) the submission, format and content of monitoring and evaluation reports of national strategies and operational programmes;
- (e) aid applications and payments of aid, including advance and partial payments of aid;
- (f) the practical arrangements for the display of the Union emblem on packages of products for free distribution;

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- (g) the respect for marketing standards in case of withdrawals;
- (h) transport, sorting and packaging costs in case of free distribution;
- (i) promotion, communication and training measures in case of crisis prevention and management;
- (j) the implementation of withdrawal operations, green harvesting, non-harvesting and harvest insurance measures;
- (k) the application, authorisation, payment and reimbursement of the national financial assistance;
- (l) the procedures for, and the amount of, the security to be lodged where an advance payment is made.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 4

Support programmes in the wine sector

Subsection 1

General provisions and eligible measures

Article 39

Scope

This Section lays down the rules governing the attribution of Union funds to Member States and the use of those funds by Member States through five-year national support programmes ("support programmes") to finance specific support measures to assist the wine sector.

Article 40

Compatibility and consistency

1 Support programmes shall be compatible with Union law and shall be consistent with the activities, policies and priorities of the Union.

2 Member States shall be responsible for support programmes and shall ensure that they are internally consistent and that they are drawn up and implemented in an objective manner, taking into account the economic situation of the producers concerned and the need to avoid unjustified unequal treatment of producers.

3 No support shall be granted for:

- a research projects and measures to support research projects other than those referred to in points (d) and (e) of Article 45(2);

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- b measures contained in Member States' rural development programmes under Regulation (EU) No 1305/2013.

Article 41

Submission of support programmes

1 Each producer Member State listed in Annex VI shall submit to the Commission a draft five-year support programme containing at least one of the eligible measures set out in Article 38.

2 The support measures in the draft support programmes shall be drawn up at the geographical level which the Member State considers most appropriate. The Member State shall consult the competent authorities and organisations at the appropriate territorial level on the draft support programme before submitting it to the Commission.

3 Each Member State shall submit a single draft support programme, which may take into account regional particularities.

4 Support programmes shall become applicable three months after the submission of the draft support programme to the Commission.

However, the Commission may adopt implementing acts establishing that the submitted draft support programme does not comply with the rules laid down in this Section, and shall inform the Member State thereof. In such a case, the Member State shall submit a revised draft support programme to the Commission. The revised support programme shall become applicable two months after the submission of the draft revised support programme unless an incompatibility persists, in which case this subparagraph shall apply.

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

5 Paragraph 4 shall apply *mutatis mutandis* to changes in respect of applicable support programmes submitted by Member States.

Article 42

Content of support programmes

Support programmes shall include at least the following elements:

- (a) a detailed description of the measures proposed, as well as their quantified objectives;
- (b) the results of consultations held;
- (c) an appraisal showing the expected technical, economic, environmental and social impact;
- (d) a schedule for implementing the measures;
- (e) a general financing table showing the resources to be deployed and the envisaged indicative allocation of the resources between the measures in accordance with the budgetary limits provided for in Annex VI;

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- (f) the criteria and quantitative indicators to be used for monitoring and evaluation as well as the steps taken to ensure that the support programmes are implemented appropriately and effectively; and
- (g) the designation of competent authorities and bodies responsible for implementing the support programme.

Article 43

Eligible measures

Support programmes may contain only one or more of the following measures:

- (a) promotion, in accordance with Article 45;
- (b) restructuring and conversion of vineyards, in accordance with Article 46;
- (c) green harvesting, in accordance with Article 47;
- (d) mutual funds, in accordance with Article 48;
- (e) harvest insurance, in accordance with Article 49;
- (f) investments, in accordance with Article 50;
- (g) innovation in the wine sector, in accordance with Article 51;
- (h) by-product distillation, in accordance with Article 52.

Article 44

General rules concerning support programmes

1 The available Union funds shall be allocated within the budgetary limits provided for in Annex VI.

2 Union support shall only be granted for eligible expenditure incurred after the submission of the relevant draft support programme.

3 Member States shall not contribute to the costs of measures financed by the Union under the support programmes.

Subsection 2

Specific support measures

Article 45

Promotion

1 Support under this Article shall cover information or promotion measures concerning Union wines:

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- a in Member States, with a view to informing consumers about the responsible consumption of wine and about the Union systems covering designations of origin and geographical indications; or
 - b in third countries, with a view to improving their competitiveness.
- 2 The measures referred to in point (b) of paragraph 1 shall apply to wines with a protected designation of origin or a protected geographical indication or wines with an indication of the wine grape variety and shall consist only of one or more of the following:
- a public relations, promotion or advertisement measures, in particular highlighting the high standards of the Union products, especially in terms of quality, food safety or the environment;
 - b participation at events, fairs or exhibitions of international importance;
 - c information campaigns, in particular on the Union systems covering designations of origin, geographical indications and organic production;
 - d studies of new markets, necessary for the expansion of market outlets;
 - e studies to evaluate the results of the information and promotion measures.
- 3 The Union contribution to information or promotion measures referred to in paragraph 1 shall not exceed 50 % of the eligible expenditure.

Article 46

Restructuring and conversion of vineyards

- 1 The objective of measures relating to the restructuring and conversion of vineyards shall be to increase the competitiveness of wine producers.
- 2 The restructuring and conversion of vineyards shall be supported if Member States submit the inventory of their production potential in accordance with Article 145(3).
- 3 Support for the restructuring and conversion of vineyards, which could also contribute to improving sustainable production systems and the environmental footprint of the wine sector, may only cover one or more of the following activities:
- a varietal conversion, including by means of grafting-on;
 - b relocation of vineyards;
 - c replanting of vineyards where that is necessary following mandatory grubbing up for health or phytosanitary reasons on the instruction of the Member State competent authority;
 - d improvements to vineyard management techniques, in particular the introduction of advanced systems of sustainable production.

The normal renewal of vineyards, which means the replanting of the same parcel of land with the same wine grape variety according to the same system of vine cultivation, when vines have come to the end of their natural life, shall not be supported.

Member States may lay down further specifications, especially as regards the age of the vineyards replaced.

- 4 Support for the restructuring and conversion of vineyards, including improving vineyard management techniques, may only take the following forms:
- a compensation to producers for the loss of revenue due to the implementation of the measure;
 - b contribution to the costs of restructuring and conversion.

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5 Compensation to producers for the loss of revenue referred to in point (a) of paragraph 4 may cover up to 100 % of the relevant loss and take one of the following forms:

- a notwithstanding Subsection II of Section IVa of Chapter III of Title I of Part II of Regulation (EC) No 1234/2007 setting out the transitional planting right regime, the permission for old and new vines to coexist until the end of the transitional regime for a maximum period which shall not exceed three years;
- b financial compensation.

6 The Union contribution to the actual costs of the restructuring and conversion of vineyards shall not exceed 50 %. In less developed regions, the Union contribution to the costs of restructuring and conversion shall not exceed 75 %.

Article 47

Green harvesting

1 For the purposes of this Article, "green harvesting" means the total destruction or removal of grape bunches while still in their immature stage, thereby reducing the yield of the relevant area to zero.

Leaving commercial grapes on the plants at the end of the normal production cycle (non-harvesting) shall not be considered to be green harvesting.

2 Support for green harvesting shall contribute to restoring the balance of supply and demand in the Union wine market in order to prevent market crises.

3 Support for green harvesting may be granted as compensation in the form of a flat rate payment per hectare to be determined by the Member State concerned. The payment shall not exceed 50 % of the sum of the direct costs of the destruction or removal of grape bunches and the loss of revenue related to such destruction or removal.

4 The Member State concerned shall establish a system based on objective criteria to ensure that the green harvesting measure does not lead to compensation of individual wine producers in excess of the ceiling fixed in paragraph 3.

Article 48

Mutual funds

1 Support for the setting up of mutual funds shall provide assistance to producers seeking to insure themselves against market fluctuations.

2 Support for the setting up of mutual funds may be granted in the form of temporary and degressive aid to cover the administrative costs of the funds.

Article 49

Harvest insurance

1 Support for harvest insurance shall contribute to safeguarding producers' incomes where there are losses as a consequence of natural disasters, adverse climatic events, diseases or pest infestations.

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Insurance contracts shall require that beneficiaries undertake necessary risk prevention measures.

2 Support for harvest insurance may be granted in the form of a Union financial contribution which shall not exceed:

- a 80 % of the cost of the insurance premiums paid for by producers for insurance against losses resulting from adverse climatic events which can be assimilated to natural disasters;
- b 50 % of the cost of the insurance premiums paid for by producers for insurance:
 - (i) against losses referred to in point (a) and against other losses caused by adverse climatic events;
 - (ii) against losses caused by animals, plant diseases or pest infestations.

3 Support for harvest insurance may be granted if the insurance payments concerned do not compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers may have obtained from other support schemes related to the insured risk.

4 Support for harvest insurance shall not distort competition in the insurance market.

Article 50

Investments

1 Support may be granted for tangible or intangible investments in processing facilities and winery infrastructure, as well as marketing structures and tools. Those investments shall be intended to improve the overall performance of the enterprise and its adaptation to market demands, as well as to increase its competitiveness, and shall concern the production or marketing of grapevine products referred to in Part II of Annex VII, including with a view to improving energy savings, global energy efficiency and sustainable processes.

2 Support under paragraph 1 at its maximum rate:

- a shall apply only to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC⁽²⁾;
- b may, in addition, apply to all enterprises for the outermost regions referred to in Article 349 TFEU and the smaller Aegean islands as defined in Article 1(2) of Regulation (EU) No 229/2013 of the European Parliament and of the Council⁽³⁾.

For enterprises not covered by Article 2(1) of Title I of the Annex to Recommendation 2003/361/EC with fewer than 750 employees, or with a turnover of less than EUR 200 million, the maximum aid intensity shall be halved.

Support shall not be granted to enterprises in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽⁴⁾.

3 The eligible expenditure shall exclude the non-eligible costs referred to in Article 69(3) of Regulation (EU) No 1303/2013.

4 The following maximum aid rates concerning the eligible investment costs shall apply to the Union contribution:

- a 50 % in less developed regions;
- b 40 % in regions other than less developed regions;

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- c 75 % in the outermost regions referred to in Article 349 TFEU;
- d 65 % in the smaller Aegean islands as defined in Article 1(2) of Regulation (EU) No 229/2013.

5 Article 71 of Regulation (EU) No 1303/2013 shall apply mutatis mutandis to support referred to in paragraph 1 of this Article.

Article 51

Innovation in the wine sector

Support may be granted for tangible or intangible investments aimed at the development of new products, processes and technologies concerning the products referred to in Part II of Annex VII. The support shall be intended to increase the marketability and competitiveness of Union grapevine products and may include an element of knowledge transfer. The maximum aid rates concerning the Union contribution to the support provided under this Article shall be the same as those set out in Article 50(4).

Article 52

By-product distillation

1 Support may be granted for the voluntary or obligatory distillation of by-products of wine making which has been carried out in accordance with the conditions laid down in Section D of Part II of Annex VIII.

The amount of aid shall be fixed per % volume and per hectolitre of alcohol produced. No aid shall be paid for the volume of alcohol contained in the by-products to be distilled which exceeds 10 % in relation to the volume of alcohol contained in the wine produced.

2 The aid shall be paid to distillers that process by-products of winemaking delivered for distillation into raw alcohol with an alcoholic strength of at least 92 % by volume.

Member States may make the granting of support conditional upon the lodging of a security by the beneficiary.

3 The maximum applicable aid levels shall be based on collection and processing costs and shall be fixed by the Commission by means of implementing acts pursuant to Article 54.

4 The relevant aid shall include a lump-sum amount to compensate for the costs of collection of the by-products of winemaking. That amount shall be transferred from the distiller to the producer, where the relevant costs are borne by the latter.

5 The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes to avoid distortion of competition.

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Subsection 3

Procedural provisions

Article 53

Delegated powers

In order to ensure that Member States' wine support programmes meet their objectives and that there is an efficient and effective use of Union funds, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing:

- (a) rules on the responsibility for expenditure between the date of receipt by the Commission of the support programmes and modifications to support programmes, and their date of applicability;
- (b) rules on the content of support programmes and the expenditure, administrative and personnel costs and operations that may be included in Member States' support programmes and the conditions for, and the possibility to make, payments through intermediaries in the case of support for harvest insurance provided for in Article 49;
- (c) rules on the requirement to lodge a security where an advance payment is made;
- (d) rules on the use of terms for the purposes of this Section;
- (e) rules on the fixing of a ceiling for expenditure on the replanting of vineyards for health or phytosanitary reasons in accordance with point (c) of the first subparagraph of Article 46(3);
- (f) rules on the avoidance of double funding between:
 - (i) the different operations of a Member State's wine support programme, and
 - (ii) a Member State's wine support programme and its rural development or promotional programmes;
- (g) rules under which producers are to withdraw the by-products of winemaking, and on exceptions to that obligation in order to avoid additional administrative burden, and rules for the voluntary certification of distillers;
- (h) rules allowing Member States to establish conditions for the proper functioning of support measures in their programmes.

Article 54

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down measures concerning:

- (a) the submission of the support programmes, the corresponding financial planning and revision of support programmes;
- (b) application, selection and payment procedures;
- (c) the submission, format and content of the reports and evaluations of Member States' support programmes;

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

- (d) the fixing, by Member States, of the rates of aid for green harvesting and by-product distillation;
- (e) financial management and provisions concerning the application of the support measures by the Member States;
- (f) the procedures for, and the amount of, the security to be lodged where an advance payment is made.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 5

Aid in the apiculture sector

Article 55

National programmes and financing

1 With a view to improving general conditions for the production and marketing of apiculture products, Member States may draw up national programmes for the apiculture sector covering a period of three years ("apiculture programmes"). These programmes shall be developed in cooperation with representative organisations in the beekeeping field.

2 The Union contribution to the apiculture programmes shall be equivalent to 50 % of the expenditure borne by Member States for those programmes, as approved in accordance with point (c) of the first paragraph of Article 57.

3 To be eligible for the Union contribution provided for in paragraph 2, Member States shall carry out a study of the production and marketing structure in the beekeeping sector in their territory.

4 The following measures may be included in apiculture programmes:

- a technical assistance to beekeepers and beekeepers' organisations;
- b combating beehive invaders and diseases, particularly varroasis;
- c rationalisation of transhumance;
- d measures to support laboratories for the analysis of apiculture products with the aim of helping beekeepers to market and increase the value of their products;
- e measures to support the restocking of hives in the Union;
- f cooperation with specialised bodies for the implementation of applied research programmes in the field of beekeeping and apiculture products;
- g market monitoring;
- h enhancement of product quality with a view to exploiting the potential of products on the market.

Status: Point in time view as at 17/12/2013.

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Article 56

Delegated powers

1 In order to ensure the effective and efficient use of Union funds for apiculture, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on:

- a the avoidance of double funding between Member States' apiculture programmes and rural development programmes;
- b the basis for allocating the Union's financial contribution to each participating Member State, based, inter alia, on the total number of bee hives in the Union.

2 In order to ensure that the Union aid scheme is adapted to the latest developments and that the measures covered are effective in improving the general conditions for the production and marketing of apiculture products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to update the list of measures referred to in Article 55(4) that may be included in Member States' apiculture programmes, by adding other measures or adapting those measures without deleting any of them. That update of the list of measures shall not affect national programmes adopted prior to the entry into force of the delegated act.

Article 57

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Section concerning:

- (a) the content of national programmes and of the studies carried out by Member States on the production and marketing structure of their beekeeping sectors;
- (b) the procedure for the reallocation of unused funds;
- (c) the approval of apiculture programmes submitted by Member States, including the allocation of the Union's financial contribution to each participating Member State and the maximum level of funding by Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 6

Aid in the hops sector

Article 58

Aid to producer organisations

1 The Union shall grant an aid to producer organisations in the hops sector recognised in accordance with Article 152 to finance the pursuit of the aims referred to in points (c)(i), (ii) or (iii) of Article 152(1).

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

2 The Union financing for the aid to producer organisations provided for in paragraph 1 shall be EUR 2 277 000 per year for Germany.

Article 59

Delegated powers

In order to ensure that the aid referred to in Article 58 finances the pursuit of the aims referred to in Article 152, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) aid applications, including rules on deadlines and accompanying documents;
- (b) rules on eligible hop areas and the calculation of the amounts to be paid to each producer organisation.

Article 60

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Section concerning the payment of aid.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER III

Scheme of authorisations for vine plantings

Article 61

Duration

The scheme of authorisations for vine plantings established in this Chapter shall apply from 1 January 2016 to 31 December 2030, with a mid-term review to be undertaken by the Commission to evaluate the operation of the scheme and, if appropriate, make proposals.

Section 1

Management of the scheme of authorisations for vine plantings

Article 62

Authorisations

1 Vines of wine grape varieties classified in accordance with Article 81(2) may only be planted or replanted if an authorisation is granted in accordance with Articles 64, 66 and 68 under the conditions laid down in this Chapter.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

2 Member States shall grant the authorisation referred to in paragraph 1, corresponding to a specific area expressed in hectares, upon submission of an application by producers which complies with objective and non-discriminatory eligibility criteria. Such authorisation shall be granted without a fee being charged to the producers.

3 The authorisations referred to in paragraph 1 shall be valid for three years from the date on which they were granted. A producer who has not used an authorisation granted during its period of validity shall be subject to administrative penalties as provided for in Article 89(4) of Regulation (EU) No 1306/2013.

4 This Chapter shall not apply to the planting or replanting of areas intended for experimental purposes or for graft nurseries, to areas whose wine or vine products are intended solely for the consumption by the wine-grower's household or to areas to be newly planted as a result of compulsory purchases in the public interest under national law.

Article 63

Safeguard mechanism for new plantings

1 Member States shall make available each year authorisations for new plantings corresponding to 1 % of the total area actually planted with vines in their territory, as measured on 31 July of the previous year.

2 Member States may:

- a apply at national level a lower percentage than the percentage set out in paragraph 1;
- b limit the issuing of authorisations at regional level, for specific areas eligible for the production of wines with a protected designation of origin, for areas eligible for the production of wines with a protected geographical indication, or for areas without a geographical indication.

3 Any of the limitations referred to in paragraph 2 shall contribute to an orderly growth of vine plantings, shall be set above 0 %, and shall be justified on one or more of the following specific grounds:

- a the need to avoid a well-demonstrated risk of oversupply of wine products in relation to market prospects for those products, not exceeding what is necessary to satisfy this need;
- b the need to avoid a well-demonstrated risk of significant devaluation of a particular protected designation of origin or a protected geographical indication.

4 Member States shall make public any decisions adopted pursuant to paragraph 2, which shall be duly justified. Member States shall notify the Commission forthwith of those decisions and justifications.

Article 64

Granting of authorisations for new plantings

1 If the total area covered by the eligible applications in a given year does not exceed the area made available by the Member State, all such applications shall be accepted.

Member States may, for the purpose of this Article, apply one or more of the following objective and non-discriminatory eligibility criteria:

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- a the applicant shall have an agricultural area which is not smaller than the area for which he requests the authorisation;
 - b the applicant shall possess adequate occupational skills and competence;
 - c the application shall not pose a significant risk of misappropriation of the reputation of specific protected designations of origin, which shall be presumed unless the existence of such risk is demonstrated by the public authorities;
 - d where duly justified, one or more of the criteria referred to in paragraph 2, provided that they are applied in an objective and non-discriminatory manner.
- 2 If the total area covered by the eligible applications referred to in paragraph 1 in a given year exceeds the area made available by the Member State, authorisations shall be granted according to a pro-rata distribution of hectares to all applicants on the basis of the area for which they have requested the authorisation. Such granting may also be partially or completely made according to one or more of the following objective and non-discriminatory priority criteria:
- a producers who are setting up vine plantings for the first time, and who are established as the head of the holding (new entrants);
 - b areas where vineyards contribute to the preservation of the environment;
 - c areas to be newly planted in the framework of land consolidation projects;
 - d areas facing natural or other specific constraints;
 - e the sustainability of projects of development or replantations on the basis of an economic evaluation;
 - f areas to be newly planted which contribute to increasing the competitiveness at farm holding and regional level;
 - g projects with the potential to improve the quality of products with geographical indications;
 - h areas to be newly planted in the framework of increasing the size of small and medium-sized holdings.
- 3 Member States shall make public the criteria referred to in paragraphs 1 and 2 that they apply and shall notify them forthwith to the Commission.

Article 65

Role of professional organisations

When applying Article 63(2), a Member State may take into account recommendations presented by recognised professional organisations operating in the wine sector referred to in Articles 152, 156 and 157, of interested groups of producers referred to in Article 95, or of other types of professional organisation recognised on the basis of that Member State's legislation, provided that those recommendations are preceded by an agreement entered into by the relevant representative parties in the reference geographical area.

The recommendations shall be made for no more than three years.

Article 66

Replantings

1 Member States shall automatically grant an authorisation to producers who have grubbed up an area planted with vines as from 1 January 2016 and submitted an application.

Status: Point in time view as at 17/12/2013.

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Such authorisation shall correspond to the equivalent of that area in terms of pure crop. The areas covered by such authorisations shall not be counted for the purposes of Article 63.

2 Member States may grant the authorisation referred to in paragraph 1 to producers undertaking to grub up an area planted with vines if the grubbing up of the pledged area is carried out at the latest by the end of the fourth year from the date on which new vines have been planted.

3 The authorisation referred to in paragraph 1 shall be used on the same holding on which the grubbing up was undertaken. Member States may, in areas eligible for the production of wines with protected designations of origin or protected geographical indications, restrict the replanting, on the basis of a recommendation from a professional organisation in accordance with Article 65, to vines complying with the same protected designation of origin or geographical indication specification as the area grubbed up.

4 This Article shall not apply in the case of grubbing up of non-authorised plantings.

Article 67

De minimis

1 The scheme of authorisations for vine plantings established in this Chapter shall not apply in Member States where the transitional planting right regime established in Subsection II of Section IVa of Chapter III of Title I of Part II of Regulation (EC) No 1234/2007 did not apply on 31 December 2007.

2 Member States to which the regime referred to in paragraph 1 applied on 31 December 2007, and in respect of which the areas currently planted with vines do not exceed 10 000 hectares, may decide not to implement the scheme of authorisations for vine plantings established in this Chapter.

Article 68

Transitional provisions

1 Planting rights granted to producers in accordance with Article 85h, Article 85i or Article 85k of Regulation (EC) No 1234/2007 before 31 December 2015 which have not been used by those producers and are still valid by that date may be converted into authorisations under this Chapter as from 1 January 2016.

Such conversion shall take place upon a request to be submitted by those producers before 31 December 2015. Member States may decide to allow producers to submit such a request to convert rights into authorisations until 31 December 2020.

2 Authorisations granted pursuant to paragraph 1 shall have the same period of validity as the planting rights referred to in paragraph 1. If these authorisations are not used, they shall expire at the latest by 31 December 2018, or, where a Member State has taken the decision referred to in the second subparagraph of paragraph 1, at the latest by 31 December 2023.

3 The areas covered by the authorisations granted pursuant to paragraph 1 shall be not be counted for the purposes of Article 63.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 69

Delegated powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) the conditions for the application of the exemption referred to in Article 62(4);
- (b) the rules relating to the criteria referred to in Article 64(1) and (2);
- (c) the addition of criteria to those listed in Article 64(1) and (2);
- (d) the co-existence of vines that the producer has undertaken to grub up with newly planted vines pursuant to Article 66(2);
- (e) the grounds for Member State decisions under Article 66(3).

Article 70

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the necessary measures in relation to:

- (a) the procedures for granting the authorisations;
- (b) the records to be kept by the Member States and notifications to be sent to the Commission.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Control of the scheme of authorisations for vine plantings

Article 71

Non-authorised plantings

1 Producers shall grub up at their own cost areas planted with vines without an authorisation.

2 If producers do not grub up within four months from the date on which they are notified of the irregularity, Member States shall ensure the grubbing up of such non-authorised plantings within two years following the expiry of the four-month period. The relevant cost shall be charged to the producers concerned.

3 Member States shall communicate to the Commission by 1 March each year the total size of the areas ascertained as planted with vines without an authorisation after 1 January 2016, as well as the areas grubbed up in accordance with paragraphs 1 and 2.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

4 A producer who has not complied with the obligation laid down in paragraph 1 of this Article shall be subject to penalties to be laid down in accordance with Article 64 of Regulation (EU) No 1306/2013.

5 Areas planted with vines without an authorisation shall not benefit from any national or Union support measures.

Article 72

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down necessary measures setting out the details of the communication requirements that Member States are to comply with, including possible reductions of the budgetary limits provided for in Annex VI in the case of non-compliance.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

TITLE II

RULES CONCERNING MARKETING AND PRODUCER ORGANISATIONS

CHAPTER I

Rules concerning marketing

Section 1

Marketing standards

Subsection 1

Introductory provisions

Article 73

Scope

Without prejudice to any other provisions applicable to agricultural products, as well as to the provisions adopted in the veterinary, phytosanitary and food sectors to ensure that products comply with hygiene and health standards and to protect animal, plant and human health, this Section lays down the rules concerning marketing standards. Those rules shall be divided between obligatory rules and optional reserved terms for agricultural products.

Status: Point in time view as at 17/12/2013.

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Subsection 2

Marketing standards by sectors or products

Article 74

General principle

The products for which marketing standards by sectors or products have been laid down in accordance with this Section may be marketed in the Union only if they conform to those standards.

Article 75

Establishment and content

1 Marketing standards may apply to one or more of the following sectors and products:

- a olive oil and table olives;
- b fruit and vegetables;
- c processed fruit and vegetable products;
- d bananas;
- e live plants;
- f eggs;
- g poultrymeat;
- h spreadable fats intended for human consumption;
- i hops.

2 In order to take into account the expectations of consumers and to improve the economic conditions for the production and marketing as well as the quality of the agricultural products covered by paragraphs 1 and 4 of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on marketing standards by sectors or products, at all stages of the marketing, as well as derogations and exemptions from such standards in order to adapt to constantly changing market conditions, to evolving consumer demands, to developments in relevant international standards and to avoid creating obstacles to product innovation.

3 Without prejudice to Article 26 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council⁽⁵⁾, the marketing standards referred to in paragraph 1 may cover one or more of the following, to be determined on a sectoral or product basis and based on the characteristics of each sector, the need to regulate the placing on the market and the conditions defined in paragraph 5 of this Article:

- a the technical definitions, designation and sales descriptions for sectors other than those set out in Article 78;
- b classification criteria such as grading into classes, weight, sizing, age and category;
- c the species, plant variety or animal race or the commercial type;
- d the presentation, labelling linked to obligatory marketing standards, packaging, rules to be applied in relation to packing centres, marking, year of harvesting and use of specific terms, without prejudice to Articles 92 to 123;
- e criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content;

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- f specific substances used in production, or components or constituents, including their quantitative content, purity and identification;
 - g the type of farming and production method including oenological practices and advanced systems of sustainable production;
 - h coupage of must and wine including definitions thereof, blending and restrictions thereof;
 - i the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport;
 - j the place of farming and/or origin, excluding poultrymeat and spreadable fats;
 - k restrictions as regards the use of certain substances and practices;
 - l specific use;
 - m the conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards adopted pursuant to paragraph 1 or with the definitions, designations and sales descriptions as referred to in Article 78, as well as the disposal of by-products.
- 4 In addition to paragraph 1, marketing standards may apply to the wine sector. Points (f), (g), (h), (k) and (m) of paragraph 3 shall apply to that sector.
- 5 The marketing standards by sectors or products adopted pursuant to paragraph 1 of this Article shall be established without prejudice to Articles 84 to 88 and Annex IX and shall take into account:
- a the specific characteristics of the product concerned;
 - b the need to ensure the conditions to facilitate the placing of the products on the market;
 - c the interest of producers to communicate the product and farming characteristics, and the interest of consumers to receive adequate and transparent product information, including the place of farming to be determined on a case-by-case basis at the appropriate geographical level, after conducting an evaluation, in particular, of the costs and administrative burdens for operators and the benefits offered to producers and the end consumer;
 - d the methods available for determining physical, chemical and organoleptic characteristics of the products;
 - e the standard recommendations adopted by international bodies;
 - f the need to preserve the natural and essential characteristics of products and to avoid causing a substantial change in the composition of the product concerned.
- 6 In order to take into account the expectations of consumers and the need to improve the quality and the economic conditions for the production and marketing of agricultural products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to modify the list of sectors in paragraph 1. Such delegated acts shall be strictly limited to demonstrated needs resulting from evolving consumer demand, technical progress or the need for product innovation, and shall be subject to a Commission report to the European Parliament and to the Council evaluating, in particular, the needs of the consumer, the costs and administrative burdens for operators, including the impact on the internal market and on international trade, and the benefits offered to producers and to the end consumer.

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Article 76

Additional requirements for marketing of products in the fruit and vegetables sector

1 In addition, where relevant, to the applicable marketing standards referred to in Article 75, products of the fruit and vegetables sector which are intended to be sold fresh to the consumer may only be marketed if they are sound, fair and of marketable quality and if the country of origin is indicated.

2 The marketing standards referred to in paragraph 1, as well as any marketing standard applicable to the fruit and vegetables sector laid down in accordance with this subsection, shall apply at all marketing stages including import and export, and may cover quality, categorisation, weight, size, packing, packaging, storage, transport, presentation and marketing.

3 The holder of products of the fruit and vegetables sector covered by marketing standards shall not display such products, offer them for sale or deliver or market them in any manner within the Union other than in conformity with those standards and shall be responsible for ensuring such conformity.

4 In order to ensure the proper application of requirements set out in paragraph 1 of this Article and to take into account certain specific situations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning specific derogations to this Article which are necessary for its proper application.

Article 77

Certification for hops

1 In addition, where relevant, to the applicable marketing standards, products of the hops sector harvested or prepared within the Union shall be subject to a certification procedure under this Article.

2 Certificates may be issued only for products having the minimum quality characteristics appropriate to a specific stage of marketing. In the case of hop powder, hop powder with higher lupulin content, extract of hops and mixed hop products, the certificate may only be issued if the alpha acid content of these products is not lower than that of the hops from which they have been prepared.

3 The certificates shall at least indicate:

- a the place(s) of production of the hops;
- b the year(s) of harvesting; and
- c the variety or varieties.

4 Products of the hops sector may be marketed or exported only if covered by a certificate issued in accordance with this Article.

In the case of imported products of the hops sector, the attestation provided for in Article 190(2) shall be deemed to be equivalent to that certificate.

5 The Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down measures derogating from paragraph 4 of this Article:

- a in order to satisfy the trade requirements of certain third countries; or
- b for products intended for special uses.

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The measures referred to in the first subparagraph shall:

- (i) not prejudice the normal marketing of products for which the certificate has been issued; and
- (ii) be accompanied by guarantees intended to avoid any confusion with those products.

Article 78

Definitions, designations and sales descriptions for certain sectors and products

1 In addition, where relevant, to the applicable marketing standards, the definitions, designations and sales descriptions provided for in Annex VII shall apply to the following sectors or products:

- a beef and veal;
- b wine;
- c milk and milk products intended for human consumption;
- d poultrymeat;
- e eggs;
- f spreadable fats intended for human consumption; and
- g olive oil and table olives.

2 The definitions, designations or sales descriptions provided for in Annex VII may be used in the Union only for the marketing of a product which conforms to the corresponding requirements laid down in that Annex.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the modifications, derogations or exemptions to the definitions and sales descriptions provided for in Annex VII. Those delegated acts shall be strictly limited to demonstrated needs resulting from evolving consumer demand, technical progress or the need for product innovation.

4 In order to ensure that operators and Member States have a clear and proper understanding of the definitions and sales descriptions provided for in Annex VII, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the rules on their specification and application.

5 In order to take into account the expectations of consumers and the evolution of the milk products market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to specify the milk products in respect of which the animal species from which the milk originates is to be stated, if it is not bovine, and to lay down the necessary rules.

Article 79

Tolerance

1 In order to take into account the specific characteristics of each product or sector, the different marketing stages, the technical conditions, any possible considerable practical difficulty, and also the accuracy and repeatability of the methods of analysis, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on tolerance for one or more specific standards in excess of which the entire batch of products shall be considered not to respect that standard.

Status: Point in time view as at 17/12/2013.

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2 When adopting the acts referred to in paragraph 1, the Commission shall take into account the need not to alter the intrinsic characteristics of the product and to avoid lowering its quality.

Article 80

Oenological practices and methods of analyses

1 Only oenological practices authorised in accordance with Annex VIII and provided for in point (g) of Article 75(3) and in Article 83(2) and (3) shall be used in the production and conservation of the products listed in Part II of Annex VII in the Union.

The first subparagraph shall not apply to:

- a grape juice and concentrated grape juice; and
- b grape must and concentrated grape must intended for the preparation of grape juice.

Authorised oenological practices shall only be used for the purposes of ensuring proper vinification, proper preservation or proper refinement of the product.

Products listed in Part II of Annex VII shall be produced in the Union in accordance with the rules laid down in Annex VIII.

2 Products listed in Part II of Annex VII shall not be marketed in the Union if:

- a they have undergone unauthorised Union oenological practices;
- b they have undergone unauthorised national oenological practices; or
- c they do not comply with the rules laid down in Annex VIII.

The grapevine products which are unmarketable in accordance with the first subparagraph shall be destroyed. By way of derogation from this rule, Member States may authorise the use of certain of such products, the characteristics of which they shall determine, by distilleries or vinegar factories or for industrial purposes, provided that this authorisation does not become an incentive to produce grapevine products by means of unauthorised oenological practices.

3 When authorising oenological practices for wine as referred to in point (g) of Article 75(3), the Commission shall:

- a take into account the oenological practices and methods of analyses recommended and published by the OIV, as well as the results of experimental use of as-yet unauthorised oenological practices;
- b take into account the protection of human health;
- c take into account the possible risk of consumers being misled due to their well established perception of the product and their corresponding expectations, having regard to the availability and feasibility of informational means to exclude such risks;
- d allow the preservation of the natural and essential characteristics of the wine and not cause a substantial change in the composition of the product concerned;
- e ensure an acceptable minimum level of environmental care;
- f respect the general rules concerning oenological practices and the rules laid down in Annex VIII.

4 In order to ensure the correct treatment of unmarketable wine products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on the national procedures referred to in the second subparagraph of paragraph

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2 of this Article, and derogations therefrom concerning the withdrawal or destruction of wine products that do not comply with the requirements.

5 The Commission shall, where necessary, adopt implementing acts laying down the methods referred to in point (d) of Article 75(5) for products listed in Part II of Annex VII. Those methods shall be based on any relevant methods recommended and published by the OIV, unless they would be ineffective or inappropriate in view of the objective pursued by the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Pending the adoption of such implementing acts, the methods and rules to be used shall be those allowed by the Member State concerned.

Article 81

Wine grape varieties

1 Products listed in Part II of Annex VII and produced in the Union shall be made from wine grape varieties classifiable in accordance with paragraph 2 of this Article.

2 Subject to paragraph 3, Member States shall classify which wine grape varieties may be planted, replanted or grafted on their territories for the purpose of wine production.

Only wine grape varieties meeting the following conditions may be classified by Member States:

- a the variety concerned belongs to the species *Vitis vinifera* or comes from a cross between the species *Vitis vinifera* and other species of the genus *Vitis*;
- b the variety is not one of the following: Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont.

Where a wine grape variety is deleted from the classification referred to in the first subparagraph, grubbing up of this variety shall take place within 15 years of its deletion.

3 Member States whose wine production does not exceed 50 000 hectolitres per wine year, calculated on the basis of the average production during the last five wine years, shall be exempt from the classification obligation provided for in the first subparagraph of paragraph 2.

However, also in those Member States, only wine grape varieties complying with the second subparagraph of paragraph 2 may be planted, replanted or grafted for the purpose of wine production.

4 By way of derogation from the first and third subparagraphs of paragraph 2 and the second subparagraph of paragraph 3, the planting, replanting or grafting of the following wine grape varieties shall be allowed by the Member States for scientific research and experimental purposes:

- a wine grape varieties which are not classified, in the case of the Member States other than those referred to in paragraph 3;
- b wine grape varieties which do not comply with the second subparagraph of paragraph 2, in the case of the Member States referred to in paragraph 3.

5 Areas planted with wine grape varieties for the purpose of wine production planted in breach of paragraphs 2, 3 and 4 shall be grubbed up.

However, there shall be no obligation to grub up such areas where the relevant production is intended exclusively for consumption by the wine-producer's household.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 82

Specific use of wine not conforming to the categories listed in Part II of Annex VII

Except for bottled wine in respect of which there is evidence that bottling was performed before 1 September 1971, wine produced from wine grape varieties listed in the classifications drawn up in accordance with the first subparagraph of Article 81(2) but not conforming to one of the categories laid down in Part II of Annex VII shall be used only for consumption by individual wine-producers' households, for the production of wine vinegar or for distillation.

Article 83

National rules for certain products and sectors

1 Notwithstanding Article 75(2), Member States may adopt or maintain national rules laying down different quality levels for spreadable fats. Such rules shall allow those quality levels to be assessed on the basis of criteria relating, in particular, to the raw materials used, the organoleptic characteristics of the products and their physical and microbiological stability.

Member States making use of the option provided for in the first subparagraph shall ensure that other Member States' products complying with the criteria laid down by those national rules may, in a non-discriminatory way, use terms which state that those criteria have been complied with.

2 Member States may limit or prohibit the use of certain oenological practices and provide for more stringent rules for wines authorised under Union law produced in their territory with a view to reinforcing the preservation of the essential characteristics of wines with a protected designation of origin or a protected geographical indication and of sparkling wines and liqueur wines.

3 Member States may allow the experimental use of unauthorised oenological practices.

4 In order to ensure the correct and transparent application of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 setting out the conditions for the application of paragraphs 1, 2 and 3 of this Article, as well as the conditions for the holding, circulation and use of the products obtained from the experimental practices referred to in paragraph 3 of this Article.

5 Member States may only adopt or maintain additional national provisions on products covered by a Union marketing standard if those provisions comply with Union law, in particular the principle of free movement of goods, and subject to Directive 98/34/EC of the European Parliament and of the Council⁽⁶⁾.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Subsection 3

Optional reserved terms

Article 84

General provision

A scheme for optional reserved terms by sector or by product shall be established in order to make it easier for producers of agricultural products that have value-adding characteristics or attributes to communicate those characteristics or attributes within the internal market, and in particular to support and complement the specific marketing standards.

This Subsection shall not apply to wine products referred to in Article 92(1).

Article 85

Existing optional reserved terms

1 The optional reserved terms covered by this scheme on 20 December 2013 are listed in Annex IX and the conditions of their use shall be laid down pursuant to point (a) of Article 86.

2 The optional reserved terms referred to in paragraph 1 of this Article shall remain in force, subject to any amendment, unless cancelled pursuant to Article 86.

Article 86

Reservation, amendment and cancellation of optional reserved terms

In order to take account of the expectations of consumers, developments in scientific and technical knowledge, the situation in the market and developments in marketing standards and in international standards, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- (a) reserving an additional optional reserved term, laying down its conditions of use;
- (b) amending the conditions of use of an optional reserved term; or
- (c) cancelling an optional reserved term.

Article 87

Additional optional reserved terms

1 A term shall be eligible to be reserved as an additional optional reserved term only if it fulfils all of the following requirements:

- a the term relates to a characteristic of a product or to a farming or processing attribute and relates to a sector or product;
- b the use of the term enables clearer communication of the added value of the product by its specific characteristics or farming or processing attributes;

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- c when the product is placed on the market, the characteristic or attribute referred to in point (a) is identifiable by consumers in several Member States;
- d the conditions and use of the term are in conformity with Directive 2000/13/EC of the European Parliament and of the Council⁽⁷⁾ or Regulation (EU) No 1169/2011.

When introducing an additional optional reserved term, the Commission shall take account of any relevant international standard and of the existing reserved terms for the products or sectors involved.

2 In order to take the characteristics of certain sectors as well as consumer expectations into account, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down further details on the requirements for the introduction of an additional reserved term, as referred to in paragraph 1 of this Article.

Article 88

Restrictions on use of optional reserved terms

1 An optional reserved term may only be used to describe products that conform to the applicable conditions of use.

2 Member States shall adopt appropriate measures to ensure that product labelling does not give rise to confusion with optional reserved terms.

3 In order to ensure that products described by means of optional reserved terms conform to the applicable conditions of use, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down additional rules on the use of optional reserved terms.

Subsection 4

Marketing standards related to import and export

Article 89

General provisions

In order to take into account the specific characteristics of trade between the Union and certain third countries and the special character of certain agricultural products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) the conditions under which imported products are considered to have an equivalent level of conformity to the Union marketing standards and conditions allowing derogation from Article 74; and
- (b) the rules concerning the application of the marketing standards to products exported from the Union.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 90

Special provisions for the imports of wine

1 Save as otherwise provided for in international agreements concluded in accordance with the TFEU, the provisions concerning designation of origin and geographical indications and labelling of wine set out in Section 2 of this Chapter, and the definitions, designations and sales descriptions referred to in Article 78 of this Regulation shall apply to products imported into the Union and falling within CN codes 2009 61, 2009 69 and 2204.

2 Save as otherwise provided for in international agreements concluded in accordance with the TFEU, products referred to in paragraph 1 of this Article shall be produced in accordance with oenological practices authorised by the Union pursuant to this Regulation or, prior to the authorisation pursuant to Article 80(3), produced in accordance with oenological practices recommended and published by the OIV.

3 The import of the products referred to in paragraph 1 shall be subject to the presentation of:

- a a certificate evincing compliance with the provisions referred to in paragraphs 1 and 2, drawn up by a competent body, included on a list to be made public by the Commission, in the product's country of origin;
- b an analysis report drawn up by a body or department designated by the product's country of origin, if the product is intended for direct human consumption.

Subsection 5

Common provisions

Article 91

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts:

- (a) establishing the list of milk and milk products referred to in the second paragraph of point 5 of Part III of Annex VII and spreadable fats referred to in point (a) of the sixth paragraph of Section I of Part VII of Annex VII, on the basis of indicative lists of products which Member States regard as corresponding, in their territory, to those provisions and which Member States shall send to the Commission;
- (b) laying down rules for the implementation of the marketing standards by sector or product;
- (c) laying down rules for determining whether products have undergone processes contrary to the authorised oenological practices;
- (d) laying down rules for the methods of analysis for determining the characteristics of products;
- (e) laying down rules for fixing the tolerance level;
- (f) laying down rules for the implementation of the measures referred to in Article 89;

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- (g) laying down rules for the identification or registration of the producer and/or the industrial facilities in which the product has been prepared or processed, for the certification procedures and for the commercial documents, accompanying documents and records to be kept.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Designations of origin, geographical indications and traditional terms in the wine sector

Subsection 1

Introductory provisions

Article 92

Scope

1 Rules on designations of origin, geographical indications and traditional terms laid down in this Section shall apply to the products referred to in points 1, 3 to 6, 8, 9, 11, 15 and 16 of Part II of Annex VIII.

- 2 The rules referred to in paragraph 1 shall be based on:
- a protecting the legitimate interests of consumers and producers;
 - b ensuring the smooth operation of the internal market in the products concerned; and
 - c promoting the production of quality products referred to in this Section, whilst allowing national quality policy measures.

Subsection 2

Designations of origin and geographical indications

Article 93

Definitions

- 1 For the purposes of this Section, the following definitions shall apply:
- a "a designation of origin" means the name of a region, a specific place or, in exceptional and duly justifiable cases, a country used to describe a product referred to in Article 92(1) fulfilling the following requirements:
 - (i) the quality and characteristics of the product are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;
 - (ii) the grapes from which the product is produced come exclusively from that geographical area;

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- (iii) the production takes place in that geographical area; and
 - (iv) the product is obtained from vine varieties belonging to *Vitis vinifera*;
- b "a geographical indication" means an indication referring to a region, a specific place or, in exceptional and duly justifiable cases, a country, used to describe a product referred to in Article 92(1) fulfilling the following requirements:
- (i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin;
 - (ii) at least 85 % of the grapes used for its production come exclusively from that geographical area;
 - (iii) its production takes place in that geographical area; and
 - (iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*.
- 2 Certain traditionally used names shall constitute a designation of origin where they:
- a designate a wine;
 - b refer to a geographical name;
 - c fulfil the requirements referred to in points (a)(i) to (iv) of paragraph 1; and
 - d have undergone the procedure conferring protection on designations of origin and geographical indications laid down in this Subsection.
- 3 Designations of origin and geographical indications, including those relating to geographical areas in third countries, shall be eligible for protection in the Union in accordance with the rules laid down in this Subsection.
- 4 Production as referred to in point (a)(iii) of paragraph 1 shall cover all the operations involved, from the harvesting of the grapes to the completion of the wine-making processes, with the exception of any post-production processes.
- 5 For the purpose of the application of point (b)(ii) of paragraph 1, the maximum 15 % share of grapes which may originate outside the demarcated area shall originate from the Member State or third country in which the demarcated area is situated.

Article 94

Applications for protection

- 1 Applications for protection of names as designations of origin or geographical indications shall include a technical file containing:
- a the name to be protected;
 - b the name and address of the applicant;
 - c a product specification, as referred to in paragraph 2; and
 - d a single document summarising the product specification referred to in paragraph 2.
- 2 The product specification shall enable interested parties to verify the relevant conditions of production relating to the designation of origin or geographical indication.
- The product specification shall at least consist of:
- a the name to be protected;

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- b a description of the wine or wines:
 - (i) in respect of a designation of origin, the principal analytical and organoleptic characteristics;
 - (ii) in respect of a geographical indication, the principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics;
 - c where applicable, the specific oenological practices used to make the wine or wines, as well as the relevant restrictions on making them;
 - d the demarcation of the geographical area concerned;
 - e the maximum yields per hectare;
 - f an indication of the wine grape variety or varieties that the wine or wines are obtained from;
 - g the details bearing out the link referred to in point (a)(i) or, as the case may be, in point (b)(i) of Article 93(1);
 - h applicable requirements laid down in Union or national legislation or, where provided for by Member States, by an organisation which manages the protected designation of origin or the protected geographical indication, having regard to the fact that such requirements must be objective, non-discriminatory and compatible with Union law;
 - i the name and address of the authorities or bodies verifying compliance with the provisions of the product specification, and their specific tasks.
- 3 Where the application for protection concerns a geographical area in a third country, it shall contain, in addition to the elements provided for in paragraphs 1 and 2, proof that the name concerned is protected in its country of origin.

Article 95

Applicants

- 1 Any interested group of producers, or in exceptional and duly justifiable cases a single producer, may apply for the protection of a designation of origin or geographical indication. Other interested parties may participate in the application.
- 2 Producers may apply for protection only for wines which they produce.
- 3 In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, a joint application may be submitted.

Article 96

Preliminary national procedure

- 1 Applications for protection of a designation of origin or a geographical indication for wines originating in the Union shall be subject to a preliminary national procedure.
- 2 The application for protection shall be filed with the Member State in the territory of which the designation of origin or geographical indication originates.
- 3 The Member State with which the application for protection is filed shall examine it in order to verify whether it meets the conditions set out in this Subsection.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

That Member State shall carry out a national procedure ensuring adequate publication of the application and providing for a period of at least two months from the date of publication within which any natural or legal person having a legitimate interest and resident or established on its territory may object to the proposed protection by lodging a duly substantiated statement with that Member State.

4 If the Member State assessing the application considers that the designation of origin or the geographical indication does not comply with the conditions laid down in this Subsection or is incompatible with Union law, it shall reject the application.

5 If the Member State assessing the application considers that the requirements are fulfilled, it shall carry out a national procedure which ensures adequate publication of the product specification at least on the Internet and forward the application to the Commission.

Article 97

Scrutiny by the Commission

1 The Commission shall make public the date of submission of the application for protection of the designation of origin or geographical indication.

2 The Commission shall examine whether the applications for protection as referred to in Article 94 meet the conditions laid down in this Subsection.

3 Where the Commission considers that the conditions laid down in this Subsection are met, it shall adopt implementing acts concerning the publication, in the *Official Journal of the European Union*, of the single document referred to in point (d) of Article 94(1) and of the reference to the publication of the product specification made in the course of the preliminary national procedure. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

4 Where the Commission considers that the conditions laid down in this Subsection are not met, it shall adopt implementing acts rejecting the application.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 98

Objection procedure

Within two months from the date of the publication of the single document as referred to in point (d) of Article 94(1), any Member State or third country, or any natural or legal person having a legitimate interest and resident or established in a Member State other than that applying for the protection or in a third country, may object to the proposed protection by submitting to the Commission a duly substantiated statement concerning the conditions of eligibility as laid down in this Subsection.

In the case of natural or legal persons resident or established in third countries, such a statement shall be submitted, either directly or via the authorities of the third country concerned, within the two month period referred to in the first paragraph.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 99

Decision on protection

On the basis of the information available to the Commission upon the completion of the objection procedure referred to in Article 98, the Commission shall adopt implementing acts either conferring protection on the designation of origin or geographical indication which meets the conditions laid down in this Subsection and is compatible with Union law, or rejecting the application where those conditions are not met.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 100

Homonyms

1 A name for which an application is submitted and which is wholly or partially homonymous with a name already registered under this Regulation shall be registered with due regard to local and traditional usage and any risk of confusion.

A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of those products is concerned.

A registered homonymous name may be used only if there is a sufficient distinction in practice between the homonym registered subsequently and the name already in the register, having regard to the need to treat the producers concerned in an equitable manner and the need to avoid misleading the consumer.

2 Paragraph 1 shall apply *mutatis mutandis* if a name for which an application is submitted is wholly or partially homonymous with a geographical indication protected under the national law of Member States.

3 Where the name of a wine grape variety contains or consists of a protected designation of origin or a protected geographical indication, that name shall not be used for the purposes of labelling agricultural products.

In order to take into account existing labelling practices, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down exceptions from that rule.

4 The protection of designations of origin and geographical indications of products covered by Article 93 of this Regulation shall be without prejudice to protected geographical indications applying to spirit drinks as defined in Article 2 of Regulation (EC) No 110/2008 of the European Parliament and of the Council⁽⁸⁾.

Article 101

Additional grounds for refusal of protection

1 A name that has become generic shall not be protected as a designation of origin or a geographical indication.

Status: Point in time view as at 17/12/2013.

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For the purposes of this Section, a "name that has become generic" means the name of a wine which, although it relates to the place or the region where this product was originally produced or marketed, has become the common name of a wine in the Union.

To establish whether or not a name has become generic, the relevant factors shall be taken into account, in particular:

- a the existing situation in the Union, notably in areas of consumption;
- b the relevant Union or national law.

2 A name shall not be protected as a designation of origin or geographical indication where, in the light of a trade mark's reputation and renown, protection could mislead the consumer as to the true identity of the wine.

Article 102

Relationship with trade marks

1 The registration of a trade mark that contains or consists of a protected designation of origin or a geographical indication which does not comply with the product specification concerned or the use of which falls under Article 103(2), and that relates to a product falling under one of the categories listed in Part II of Annex VII shall be:

- a refused if the application for registration of the trade mark is submitted after the date of submission of the application for protection of the designation of origin or geographical indication to the Commission and the designation of origin or geographical indication is subsequently protected; or
- b invalidated.

2 Without prejudice to Article 101(2), a trade mark referred to in paragraph 1 of this Article which has been applied for, registered or established by use in good faith, if that possibility is provided for by the law concerned, in the territory of the Union either before the date of protection of the designation of origin or geographical indication in the country of origin, or before 1 January 1996, may continue to be used and renewed notwithstanding the protection of a designation of origin or geographical indication, provided that no grounds for the trade mark's invalidity or revocation exist under Directive 2008/95/EC of the European Parliament and of the Council⁽⁹⁾ or under Council Regulation (EC) No 207/2009⁽¹⁰⁾.

In such cases, the use of the designation of origin or geographical indication shall be permitted alongside the relevant trade marks.

Article 103

Protection

1 A protected designation of origin and a protected geographical indication may be used by any operator marketing a wine which has been produced in conformity with the corresponding product specification.

2 A protected designation of origin and a protected geographical indication, as well as the wine using that protected name in conformity with the product specifications, shall be protected against:

- a any direct or indirect commercial use of that protected name:

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- (i) by comparable products not complying with the product specification of the protected name; or
 - (ii) in so far as such use exploits the reputation of a designation of origin or a geographical indication;
- b any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated, transcribed or transliterated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;
 - c any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, as well as the packing of the product in a container liable to convey a false impression as to its origin;
 - d any other practice liable to mislead the consumer as to the true origin of the product.
- 3 Protected designations of origin and protected geographical indications shall not become generic in the Union within the meaning of Article 101(1).

Article 104

Register

The Commission shall establish and maintain an electronic register of protected designations of origin and protected geographical indications for wine which shall be publicly accessible. Designations of origin and geographical indications pertaining to products of third countries that are protected in the Union pursuant to an international agreement to which the Union is a contracting party may be entered in the register. Unless specifically identified in that agreement as protected designations of origin within the meaning of this Regulation, such names shall be entered in the register as protected geographical indications.

Article 105

Amendments to product specifications

An applicant satisfying the conditions laid down in Article 95 may apply for approval of an amendment to the product specification of a protected designation of origin or of a protected geographical indication, in particular to take account of developments in scientific and technical knowledge or to redemarcate the geographical area referred to in point (d) of the second subparagraph of Article 94(2). Applications shall describe and state reasons for the amendments requested.

Article 106

Cancellation

The Commission may, on its own initiative or on a duly substantiated request by a Member State, a third country or a natural or legal person having a legitimate interest, adopt implementing acts cancelling the protection of a designation of origin or a geographical indication if compliance with the corresponding product specification is no longer ensured.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 107

Existing protected wine names

1 Wine names referred to in Articles 51 and 54 of Council Regulation (EC) No 1493/1999⁽¹¹⁾ and Article 28 of Commission Regulation (EC) No 753/2002⁽¹²⁾ shall be automatically protected under this Regulation. The Commission shall list them in the register provided for in Article 104 of this Regulation.

2 The Commission shall take the corresponding formal step of removing wine names to which Article 118s(3) of Regulation (EC) No 1234/2007 applies from the register provided for in Article 104 of this Regulation by means of implementing acts adopted without applying the procedure referred to in Article 229(2) or (3) of this Regulation.

3 Article 106 shall not apply to existing protected wine names referred to in paragraph 1 of this Article.

Until 31 December 2014, the Commission may, on its own initiative, adopt implementing acts cancelling the protection of existing protected wine names referred to in paragraph 1 of this Article if they do not meet the conditions laid down in Article 93.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

4 For Croatia, the wine names published in the *Official Journal of the European Union*⁽¹³⁾ shall be protected under this Regulation, subject to a favourable outcome of the objection procedure. The Commission shall list them in the register provided for in Article 104.

Article 108

Fees

Member States may charge fees to cover their costs, including those incurred in examining the applications for protection, statements of objections, applications for amendments and requests for cancellations under this Subsection.

Article 109

Delegated powers

1 In order to take into account the specific characteristics of the production in the demarcated geographical area, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- a the additional criteria for the demarcation of the geographical area; and
- b the restrictions and derogations concerning the production in the demarcated geographical area.

2 In order to ensure product quality and traceability, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which product specifications may include additional requirements.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

3 In order to ensure the protection of the legitimate rights and interests of producers and operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on:

- a the type of applicant that may apply for the protection of a designation of origin or geographical indication;
- b the conditions to be followed in respect of an application for the protection of a designation of origin or geographical indication, scrutiny by the Commission, the objection procedure, and procedures for amendment, cancellation and conversion of protected designations of origin or protected geographical indications;
- c the conditions applicable to trans-border applications;
- d the conditions for applications concerning geographical areas in a third country;
- e the date from which a protection or an amendment to a protection shall apply;
- f the conditions related to amendments to product specifications.

4 In order to ensure an adequate level of protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on restrictions regarding the protected name.

5 In order to ensure that economic operators and competent authorities are not unduly affected by the application of this Subsection as regards wine names which have been granted protection prior to 1 August 2009, or for which an application for protection has been made prior to that date, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down transitional rules concerning:

- a wine names recognised by Member States as designations of origin or geographical indications by 1 August 2009, and wine names for which an application for protection has been made prior to that date;
- b wines placed on the market or labelled before a specific date; and
- c amendments to the product specifications.

Article 110

Implementing powers in accordance with the examination procedure

1 The Commission may adopt implementing acts laying down necessary measures concerning:

- a the information to be provided in the product specification with regard to the link between the geographical area and the final product;
- b the making of decisions on protection or rejection available to the public;
- c the establishment and the maintenance of the register referred to in Article 104;
- d the conversion from protected designation of origin to protected geographical indication;
- e the submission of trans-border applications.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2 The Commission may adopt implementing acts laying down necessary measures concerning the procedure for the examination of applications for protection or for the approval of an amendment of a designation of origin or a geographical indication, as well as the procedure for requests for objection, cancellation, or conversion, and the submission of information related to existing protected wine names, in particular with respect to:

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- a models for documents and the transmission format;
- b time limits;
- c the details of the facts, evidence and supporting documents to be submitted in support of an application or a request.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 111

Other implementing powers

Where an objection is deemed inadmissible, the Commission shall adopt an implementing act rejecting it as inadmissible. That implementing act shall be adopted without applying the procedure referred to in Article 229(2) or (3).

Subsection 3

Traditional terms

Article 112

Definition

A "traditional term" means a term traditionally used in Member States for the products referred to in Article 92(1) to designate:

- (a) that the product has a protected designation of origin or a protected geographical indication under Union or national law; or
- (b) the production or ageing method or the quality, colour, type of place, or a particular event linked to the history of the product with a protected designation of origin or a protected geographical indication.

Article 113

Protection

1 A protected traditional term may only be used for a product which has been produced in conformity with the definition provided for in Article 112.

Traditional terms shall be protected against unlawful use.

2 Traditional terms shall be protected, only in the language and for the categories of grape vine products claimed in the application, against:

- a any misuse of the protected term, including where it is accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;
- b any other false or misleading indication as to the nature, characteristics or essential qualities of the product, placed on the inner or outer packaging, advertising material or documents relating to it;

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- c any other practice likely to mislead the consumer, in particular to give the impression that the wine qualifies for the protected traditional term.
- 3 Traditional terms shall not become generic in the Union.

Article 114

Delegated powers

1 In order to ensure an adequate level of protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 regarding the language and the spelling of the traditional term to be protected.

2 In order to ensure the protection of the legitimate rights and interests of producers and operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing:

- a the type of applicants that may apply for the protection of a traditional term;
- b the conditions of validity of an application for protection of a traditional term;
- c the grounds for objecting to a proposed recognition of a traditional term;
- d the scope of the protection, the relationship with trade marks, protected traditional terms, protected designations of origin or geographical indications, homonyms, or certain wine grape names;
- e the grounds for cancellation of a traditional term;
- f the date of submission of an application or of a request for objection or cancellation;
- g the procedures to be followed in respect of an application for the protection of a traditional term, including scrutiny by the Commission, the objection procedure and the procedures on cancellation and modification.

3 In order to take into account the specific characteristics of trade between the Union and certain third countries, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which traditional terms may be used on products from third countries and providing for derogations from Article 112 and Article 113(2).

Article 115

Implementing powers in accordance with the examination procedure

1 The Commission may adopt implementing acts laying down necessary measures concerning the procedure for the examination of applications for protection or for the approval of a modification of a traditional term, as well as the procedure for requests for objection or cancellation, in particular with respect to:

- a models for documents and the transmission format;
- b time limits;
- c the details of the facts, evidence and supporting documents to be submitted in support of the application or request;
- d detailed rules on making protected traditional terms available to the public.

2 The Commission shall adopt implementing acts accepting or rejecting an application for protection of a traditional term or a request for a modification of the protected term or the cancellation of the protection of a traditional term.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

3 The Commission shall adopt implementing acts providing for the protection of traditional terms in respect of which an application for protection has been accepted, in particular by classifying them in accordance with Article 112 and by publishing a definition and/or the conditions of use.

4 The implementing acts referred to in paragraphs 1, 2 and 3 of this Article shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 116

Other implementing powers

Where an objection is deemed inadmissible, the Commission shall adopt an implementing act rejecting it as inadmissible. That implementing act shall be adopted without applying the procedure referred to in Article 229(2) or (3).

Section 3

Labelling and presentation in the wine sector

Article 117

Definition

For the purposes of this Section:

- (a) "labelling" means any words, particulars, trade marks, brand name, pictorial matter or symbol placed on any packaging, document, notice, label, ring or collar accompanying or referring to a given product;
- (b) "presentation" means any information conveyed to consumers by virtue of the packaging of the product concerned, including the form and type of bottles.

Article 118

Applicability of horizontal rules

Save as otherwise provided for in this Regulation, Council Directive 89/396/EEC⁽¹⁴⁾, Directive 2000/13/EC, Directive 2007/45/EC of the European Parliament and of the Council⁽¹⁵⁾, Directive 2008/95/EC and Regulation (EU) No 1169/2011 shall apply to the labelling and presentation.

The labelling of the products referred to in points 1 to 11, 13, 15 and 16 of Part II of Annex VII may not be supplemented by any particulars other than those provided for in this Regulation unless those particulars satisfy the requirements of Directive 2000/13/EC or Regulation (EU) No 1169/2011.

Status: Point in time view as at 17/12/2013.

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Article 119

Compulsory particulars

1 Labelling and presentation of the products referred to in points 1 to 11, 13, 15 and 16 of Part II of Annex VII marketed in the Union or for export shall contain the following compulsory particulars:

- a the designation for the category of the grapevine product in accordance with Part II of Annex VII;
- b for wines with a protected designation of origin or a protected geographical indication:
 - (i) the term "protected designation of origin" or "protected geographical indication"; and
 - (ii) the name of the protected designation of origin or the protected geographical indication;
- c the actual alcoholic strength by volume;
- d an indication of provenance;
- e an indication of the bottler or, in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, the name of the producer or vendor;
- f an indication of the importer in the case of imported wines; and
- g in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, an indication of the sugar content.

2 By way of derogation from point (a) of paragraph 1, the reference to the category of the grapevine product may be omitted for wines whose labels include the name of a protected designation of origin or a protected geographical indication.

3 By way of derogation from point (b) of paragraph 1, the reference to the terms "protected designation of origin" or "protected geographical indication" may be omitted in the following cases:

- a where a traditional term in accordance with point (a) of Article 112 is displayed on the label in accordance with the product specification referred to in Article 94(2);
- b in exceptional and duly justified circumstances to be determined by the Commission by means of delegated acts adopted in accordance with Article 227 in order to ensure compliance with existing labelling practices.

Article 120

Optional particulars

1 Labelling and presentation of the products referred to in points 1 to 11, 13, 15 and 16 of Part II of Annex VII may, in particular, contain the following optional particulars:

- a the vintage year;
- b the name of one or more wine grape varieties;
- c in the case of wines other than those referred to in point (g) of Article 119(1), terms indicating the sugar content;
- d for wines with a protected designation of origin or a protected geographical indication, traditional terms in accordance with point (b) of Article 112;

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- e the Union symbol indicating the protected designation of origin or the protected geographical indication;
 - f terms referring to certain production methods;
 - g for wines bearing a protected designation of origin or a protected geographical indication, the name of another geographical unit that is smaller or larger than the area underlying the designation of origin or geographical indication.
- 2 Without prejudice to Article 100(3), as regards the use of particulars referred to in points (a) and (b) of paragraph 1 of this Article for wines without a protected designation of origin or a protected geographical indication:
- a Member States shall introduce laws, regulations or administrative provisions to ensure certification, approval and verification procedures so as to guarantee the veracity of the information concerned;
 - b Member States may, on the basis of non-discriminatory and objective criteria and with due regard to fair competition, for wine produced from wine grape varieties on their territory, draw up lists of excluded wine grape varieties, in particular if:
 - (i) there is a risk of confusion for consumers as to the true origin of the wine due to the fact that the wine grape variety forms an integral part of an existing protected designation of origin or a protected geographical indication;
 - (ii) checks would not be cost-effective due to the fact that the given wine grape variety represents a very small part of the Member State vineyard;
 - c mixtures of wines from different Member States shall not give rise to labelling of the wine grape variety unless the Member States concerned agree otherwise and ensure the feasibility of the relevant certification, approval and verification procedures.

Article 121

Languages

1 The compulsory and optional particulars referred to in Articles 119 and 120 shall, where expressed in words, appear in one or more official language of the Union.

2 Notwithstanding paragraph 1, the name of a protected designation of origin or a protected geographical indication or a traditional term as referred to in point (b) of Article 112 shall appear on the label in the language or languages for which the protection applies. In the case of a protected designation of origin or a protected geographical indication or a national specific designation using a non-Latin alphabet, the name may also appear in one or more official languages of the Union.

Article 122

Delegated powers

1 In order to take into account the specific characteristics of the wine sector, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules and restrictions on:

- a the presentation and use of labelling particulars other than those provided for in this Section;
- b compulsory particulars concerning:

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- (i) terms to be used to formulate the compulsory particulars and their conditions of use;
- (ii) terms referring to a holding and the conditions for their use;
- (iii) provisions allowing the producing Member States to establish additional rules relating to compulsory particulars;
- (iv) provisions allowing further derogations in addition to those referred to in Article 119(2) as regards the omission of the reference to the category of the grapevine product; and
- (v) provisions on the use of languages;
- c optional particulars concerning:
 - (i) terms to be used to formulate the optional particulars and their conditions of use;
 - (ii) provisions allowing the producing Member States to establish additional rules relating to optional particulars;
- d the presentation concerning:
 - (i) the conditions of use of certain bottle shapes, and a list of certain specific bottle shapes;
 - (ii) the conditions of use of "sparkling wine"-type bottles and closures;
 - (iii) provisions allowing the producing Member States to establish additional rules relating to presentation;
 - (iv) provisions on the use of languages.

2 In order to ensure the protection of the legitimate interests of operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules as regards temporary labelling and presentation of wines bearing a designation of origin or a geographical indication, where that designation of origin or geographical indication fulfils the necessary requirements.

3 In order to ensure that economic operators are not prejudiced, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning transitional provisions as regards wine placed on the market and labelled in accordance with the relevant rules applying before 1 August 2009.

4 In order to take account of the specific characteristics in trade between the Union and certain third countries, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning derogations from this Section as regards products to be exported where required by the law of the third country concerned.

Article 123

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down necessary measures concerning the procedures and technical criteria applicable to this Section, including the necessary measures for the certification, approval and verification procedures applicable to wines without a protected designation of origin or a protected geographical indication.

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Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER II

Specific provisions for individual sectors

Section 1

Sugar

Article 124

Duration

With the exceptions of Articles 125 and 126, this Section shall apply until the end of the 2016/2017 marketing year.

Subsection 1

Specific measures

Article 125

Sugar sector agreements

1 The terms for buying sugar beet and sugar cane, including pre-sowing delivery contracts, shall be governed by written agreements within the trade concluded between, on the one hand, Union growers of sugar beet and sugar cane or, on their behalf, the organisations of which they are members, and, on the other hand, Union sugar undertakings or, on their behalf, the organisations of which they are members.

2 Agreements within the trade as described in point 6 of Section A of Part II of Annex II shall be notified by sugar undertakings to the competent authorities of the Member State in which they produce sugar.

3 From 1 October 2017, agreements within the trade shall conform to the purchase terms laid down in Annex X.

4 In order to take into account the specific characteristics of the sugar sector and the development of the sector in the period following the ending of production quotas, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to:

- a update the terms referred to in Section A of Part II of Annex II;
- b update the purchase terms for beet referred to in Annex X;
- c lay down further rules on the determination of gross weight, tare and sugar content of sugar beet delivered to an undertaking, and on beet pulp.

5 The Commission may adopt implementing acts laying down the measures necessary for the application of this Article, including in respect of procedures, notifications and administrative assistance in the case of agreements within the trade covering more than one

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Member State. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 126

Price reporting in the sugar market

The Commission may adopt implementing acts establishing a system for reporting sugar market prices, including arrangements for publishing the price levels for this market. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

The system referred to in the first subparagraph shall be based on information submitted by undertakings producing white sugar or by other operators involved in the sugar trade. This information shall be treated as confidential.

The Commission shall ensure that specific prices or names of individual economic operators are not published.

Subsection 2

Requirements applying to the sugar sector during the period referred to in article 124

Article 127

Delivery contracts

1 In addition to the requirements set out in Article 125(1), agreements within the trade shall conform to the purchase terms laid down in Annex XI.

2 In delivery contracts, a distinction shall be made depending on whether the quantities of sugar to be manufactured from sugar beet are:

- a quota sugar; or
- b out-of-quota sugar.

3 Each sugar undertaking shall provide the Member State in which it produces sugar with the following information:

- a the quantities of beet referred to in point (a) of paragraph 2 for which they have concluded pre-sowing delivery contracts and the sugar content on which those contracts are based;
- b the corresponding estimated yield.

Member States may require additional information.

4 Sugar undertakings which have not signed pre-sowing delivery contracts at the minimum price for quota beet, as referred to in Article 135, for a quantity of beet equivalent to the sugar for which they hold a quota, adjusted, as the case may be, by the coefficient for a preventive withdrawal fixed pursuant to the first subparagraph of Article 130(2), shall be required to pay at least the minimum price for quota beet for all the sugar beet they process into sugar.

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5 Subject to the approval of the Member State concerned, agreements within the trade may derogate from paragraphs 2, 3 and 4.

6 If no agreements within the trade exist, the Member State concerned shall take the necessary steps compatible with this Regulation to protect the interests of the parties concerned.

Article 128

Production charge

1 A production charge shall be levied on the sugar quota, the isoglucose quota and the inulin syrup quota held by undertakings producing sugar, isoglucose or inulin syrup as referred to in Article 136(2).

2 Measures on the fixing of the production charge for quota sugar, quota isoglucose and quota inulin syrup referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 129

Production refund

1 A production refund may be granted on the products of the sugar sector listed in points (b) to (e) of Part III of Annex I if surplus sugar or imported sugar, surplus isoglucose or surplus inulin syrup is not available at a price corresponding to the world price for the manufacturing of the products referred to in points (b) and (c) of the second subparagraph of Article 140(2).

2 Measures on the fixing of the production refund referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 130

Withdrawal of sugar

1 To avoid price collapses in the internal market and to remedy situations of overproduction based on the forecast supply balance, and taking into account the commitments of the Union resulting from international agreements concluded in accordance with the TFEU, the Commission may adopt implementing acts withdrawing from the market, for a given marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2.

2 The withdrawal threshold referred to in paragraph 1 shall be calculated, for each undertaking holding a quota, by multiplying its quota by a coefficient. The Commission may adopt implementing acts fixing that coefficient for a marketing year no later than 28 February of the previous marketing year, on the basis of expected market trends.

On the basis of updated market trends, the Commission may, by 31 October of the marketing year concerned, adopt implementing acts either adjusting or, where no coefficient has been fixed pursuant to the first subparagraph, fixing a coefficient.

3 Each undertaking holding a quota shall store, at its own expense, until the beginning of the following marketing year, the sugar produced under quota in excess of the threshold calculated in accordance with paragraph 2. The sugar, isoglucose or inulin syrup quantities

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withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year.

By way of derogation from the first subparagraph, taking into account the expected sugar market trends, the Commission may adopt implementing acts providing that, for the current, the following or both marketing years, all or part of the withdrawn sugar, isoglucose or inulin syrup is to be considered to be:

- a surplus sugar, isoglucose or inulin syrup available to become industrial sugar, industrial isoglucose or industrial inulin syrup; or
- b temporary quota production of which a part may be reserved for export respecting the commitments of the Union resulting from international agreements concluded in accordance with the TFEU.

4 If sugar supply in the Union is inadequate, the Commission may adopt implementing acts allowing a certain quantity of withdrawn sugar, isoglucose or inulin syrup to be sold on the Union market before the end of the period of withdrawal.

5 Where withdrawn sugar is treated as the first sugar production of the following marketing year, the minimum price of that marketing year, as referred to in Article 135, shall be paid to beet growers.

Where withdrawn sugar becomes industrial sugar or is exported in accordance with points (a) or (b) of the second subparagraph of paragraph 3 of this Article, the requirements of Article 135 on the minimum price shall not apply.

Where withdrawn sugar is sold on the Union market before the end of the period of withdrawal in accordance with paragraph 4 of this Article, the minimum price of the ongoing marketing year shall be paid to beet growers.

6 Implementing acts pursuant to this Article shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 131

Temporary market management mechanism

1 For the duration of the period referred to in Article 124, the Commission may adopt implementing acts laying down the measures necessary in order to ensure a sufficient supply of sugar to the Union market. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Such measures may adjust, for the quantity and time necessary, the level of the duty payable on imported raw sugar.

Within the context of the temporary market management mechanism, measures on the fixing of a surplus levy are taken by the Council in accordance with Article 43(3) TFEU.

2 The Commission shall adopt implementing acts determining the appropriate quantity of out-of-quota sugar and imported raw sugar that can be released onto the Union market. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

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Article 132

Delegated powers

In order to take into account the specific characteristics of the sugar sector and to ensure that the interests of all parties are duly taken into account, and given the need to prevent any disturbance of the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) purchase terms and delivery contracts referred to Article 127;
- (b) updating the purchase terms for beet referred to in Annex XI;
- (c) the criteria to be applied by the sugar undertakings when allocating among beet sellers the quantities of beet to be covered by pre-sowing delivery contracts as referred to in Article 127(3).

Article 133

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Subsection concerning procedures, content and technical criteria.

Those implementing acts shall be adopted in accordance with examination procedure referred to in Article 229(2).

Subsection 3

System of production regulation

Article 134

Quotas in the sugar sector

- 1 A quota system shall apply to sugar, isoglucose and inulin syrup.
- 2 As regards the quota system referred to in paragraph 1 of this Article, if a producer exceeds the relevant quota and does not make use of the surplus quantities as provided for in Article 139, a surplus levy shall be payable on such quantities, subject to the conditions set out in Articles 139 to 142.

Article 135

Minimum beet price

The minimum price for quota beet shall be fixed by the Council in accordance with Article 43(3) TFEU.

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Article 136

Quota allocation

1 The quotas for the production of sugar, isoglucose and inulin syrup at national or regional level are fixed in Annex XII.

2 The Member States shall allocate a quota to each undertaking producing sugar, isoglucose or inulin syrup established in its territory and approved under Article 137.

For each undertaking, the allocated quota shall be equal to the quota which was allocated to the undertaking for the marketing year 2010/2011 under Regulation (EC) No 1234/2007.

3 Where a quota is allocated to a sugar undertaking having more than one production unit, the Member States shall adopt the measures they consider necessary in order to take due account of the interests of sugar beet and cane growers.

Article 137

Approved undertakings

1 On request, Member States shall grant approval to an undertaking producing sugar, isoglucose or inulin syrup or to an undertaking that processes these products into a product included in the list referred to in Article 140(2) provided that the undertaking:

- a proves its professional production capacities;
- b agrees to provide any information and to be subject to controls related to this Regulation;
- c is not subject to suspension or withdrawal of the approval.

2 The approved undertakings shall provide the Member State in whose territory the harvest of beet, cane or the refining takes place with the following information:

- a the quantities of beet or cane for which a delivery contract has been concluded, as well as the corresponding estimated yields of beet or cane and sugar per hectare;
- b data on provisional and actual sugar beet, sugar cane and raw sugar deliveries, and on sugar production and statements of sugar stocks;
- c the quantities of white sugar sold and the corresponding prices and conditions.

Article 138

National quota reallocation and reduction of quotas

1 A Member State may reduce the sugar or isoglucose quota that has been allocated to an undertaking established on its territory by up to 10 %. In doing so, the Member States shall apply objective and non-discriminatory criteria.

2 Member States may transfer quotas between undertakings in accordance with the rules laid down in Annex XIII and taking into consideration the interests of each of the parties concerned, particularly sugar beet and cane growers.

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3 The quantities reduced pursuant to paragraphs 1 and 2 shall be allocated by the Member State in question to one or more undertakings on its territory, whether or not holding a quota.

Article 139

Out-of-quota production

1 The sugar, isoglucose or inulin syrup produced during a marketing year in excess of the quota referred to in Article 136 may be:

- a used for the processing of certain products as referred to in Article 140;
- b carried forward to the quota production of the next marketing year in accordance with Article 141;
- c used for the specific supply regime for the outermost regions, in accordance with Chapter III of Regulation (EU) No 228/2013 of the European Parliament and of the Council⁽¹⁶⁾;
- d exported within a quantitative limit, to be fixed by the Commission by means of implementing acts, respecting the commitments resulting from international agreements concluded in accordance with the TFEU; or
- e released onto the internal market, in compliance with the mechanism described in Article 131, for the purpose of adjusting supply to demand on the basis of the forecast supply balance.

The measures referred to in point (e) of the first paragraph of this Article shall be implemented before any activation of the measures to prevent market disturbance referred to in Article 219(1).

Other quantities shall be subject to the surplus levy referred to in Article 142.

2 Implementing acts pursuant to this Article shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 140

Industrial sugar

1 Industrial sugar, industrial isoglucose or industrial inulin syrup shall be reserved for the production of one of the products referred to in paragraph 2 when:

- a it has been subject to a delivery contract concluded before the end of the marketing year between a producer and a user which have both been granted approval in accordance with Article 137; and
- b it has been delivered to the user on 30 November of the following marketing year at the latest.

2 In order to take account of technical developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing a list of products for the production of which industrial sugar, industrial isoglucose or industrial inulin syrup may be used.

The list shall, in particular, include:

- a bioethanol, alcohol, rum, live yeast and quantities of syrups for spreading and those to be processed into "Rinse appelstroop";

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- b certain industrial products without sugar content but which are processed using sugar, isoglucose or inulin syrup;
- c certain products of the chemical or pharmaceutical industry which contain sugar, isoglucose or inulin syrup.

Article 141

Carry-forward of surplus sugar

1 Each undertaking may decide to carry forward all or part of its production in excess of its sugar quota, its isoglucose quota or its inulin syrup quota to be treated as part of the next marketing year's production. Without prejudice to paragraph 3, that decision shall be irrevocable.

- 2 Undertakings which take the decision referred to in paragraph 1 shall:
- a inform the Member State concerned before a date to be determined by that Member State:
 - (i) between 1 February and 31 August of the current marketing year for quantities of cane sugar being carried forward;
 - (ii) between 1 February and 31 August of the current marketing year for other quantities of beet sugar, isoglucose or inulin syrup being carried forward;
 - b undertake to store such quantities at their own expense until the end of the current marketing year.

3 If an undertaking's definitive production in the marketing year concerned was less than the estimate made when the decision in accordance with paragraph 1 was taken, the quantity carried forward may be adjusted retroactively by 31 October of the following marketing year at the latest.

4 The quantities carried forward shall be deemed to be the first quantities produced under the quota of the following marketing year.

5 Sugar stored in accordance with this Article during a marketing year may not be subject to any other storage measures provided for in Articles 16 or 130.

Article 142

Surplus levy

- 1 A surplus levy shall be levied on quantities of:
- a surplus sugar, surplus isoglucose and surplus inulin syrup produced during any marketing year, except for quantities carried forward to the quota production of the following marketing year and stored in accordance with Article 141 or quantities referred to in points (c), (d) and (e) of the first subparagraph of Article 139(1);
 - b industrial sugar, industrial isoglucose or industrial inulin syrup in respect of which no proof of use in one of the products referred to in Article 140(2) has been supplied within a time limit, to be fixed by the Commission by means of implementing acts;
 - c sugar, isoglucose and inulin syrup withdrawn from the market in accordance with Article 130 and for which the obligations provided for in Article 130(3) are not met.

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Implementing acts pursuant to point (b) of the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2 Measures on the fixing of a surplus levy referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 143

Delegated powers

1 In order to ensure that undertakings referred to in Article 137 comply with their obligations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down rules on the granting and the withdrawal of approval for such undertakings, as well as the criteria for administrative penalties.

2 In order to take into account the specific characteristics of the sugar sector and to ensure that the interests of all parties are duly taken into account, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on the meaning of terms for the operation of the quota system, as well as laying down the conditions governing sales to outermost regions.

3 In order to ensure that the growers are closely associated with a decision to carry forward a certain quantity of production, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down rules concerning carry-forward of sugar.

Article 144

Implementing powers in accordance with the examination procedure

With regard to the undertakings referred to in Article 137, the Commission may adopt implementing acts establishing rules concerning:

- (a) applications for approval made by undertakings, the records to be kept by approved undertakings, the information to be submitted by approved undertakings;
- (b) the system of checks to be carried out by Member States on approved undertakings;
- (c) Member States' communications with the Commission and with approved undertakings;
- (d) the delivery to undertakings of raw materials, including delivery contracts and delivery notes;
- (e) equivalence regarding sugar referred to in point (a) of the first subparagraph of Article 139(1);
- (f) the specific supply regime for the outermost regions;
- (g) exports as referred to in point (d) of the first subparagraph of Article 139(1);
- (h) Member State cooperation to ensure effective checks;
- (i) modifying the dates laid down in Article 141 for specific marketing years;

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- (j) the establishment of the surplus quantity, the communications and payment of the surplus levy referred to in Article 142;
- (k) the adoption of a list of full-time refiners within the meaning of point 6 of Section B of Part II of Annex II.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Wine

Article 145

Vineyard register and inventory of production potential

1 Member States shall maintain a vineyard register which shall contain updated information on the production potential. From 1 January 2016, this obligation shall only apply if Member States implement the scheme of authorisations for vine plantings referred to in Chapter III of Title I, or a national support programme.

2 Until 31 December 2015, Member States in which the total area planted with vines of wine grape varieties classified in accordance with Article 81(2) is less than 500 hectares shall not be subject to the obligation laid down in paragraph 1 of this Article.

3 Member States which provide for restructuring and conversion of vineyards in their support programmes in accordance with Article 46 shall, on the basis of the vineyard register, submit to the Commission by 1 March each year an updated inventory of their production potential. From 1 January 2016, details in respect of communications to the Commission regarding wine-growing areas shall be laid down by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

4 In order to facilitate the monitoring and the verification of the production potential by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on the content of the vineyard register and exemptions therefrom.

Article 146

Competent national authorities for the wine sector

1 Without prejudice to any other provisions of this Regulation concerning the determination of competent national authorities, Member States shall designate one or more authorities which shall be responsible for ensuring compliance with Union rules in the wine sector. In particular, Member States shall designate the laboratories authorised to carry out official analyses in the wine sector. The designated laboratories shall satisfy the general criteria for the operation of testing laboratories set out in ISO/IEC 17025.

2 Member States shall inform the Commission of the names and addresses of the authorities and laboratories referred to in paragraph 1. The Commission shall make this information public and shall update it periodically.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 147

Accompanying documents and register

1 The products of the wine sector shall be put into circulation in the Union with an officially authorised accompanying document.

2 Natural or legal persons or groups of persons who hold products covered by the wine sector in the exercise of their trade, in particular producers, bottlers, processors and merchants, shall keep inward and outward registers in respect of those products.

3 In order to facilitate the transport of wine products and the verification thereof by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on:

- a rules on the accompanying document and its use;
- b the conditions under which an accompanying document is to be regarded as certifying protected designations of origin or geographical indications;
- c an obligation to keep a register and its use;
- d who is obliged to keep a register and exemptions from that obligation;
- e the operations to be included in the register.

4 The Commission may adopt implementing acts establishing:

- a rules on the composition of the registers, the products to be contained therein, deadlines for entries in registers and the closures of registers;
- b measures requiring Member States to determine the maximum acceptable percentages for losses;
- c general and transitional provisions for the keeping of registers;
- d rules determining how long accompanying documents and the registers are to be kept.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 3

Milk and milk products

Article 148

Contractual relations in the milk and milk products sector

1 Where a Member State decides that every delivery of raw milk in its territory by a farmer to a processor of raw milk must be covered by a written contract between the parties and/or decides that first purchasers must make a written offer for a contract for the delivery of raw milk by the farmers, such contract and/or such offer for a contract shall fulfil the conditions laid down in paragraph 2.

Where a Member State decides that deliveries of raw milk by a farmer to a processor of raw milk must be covered by a written contract between the parties, it shall also decide which stage or stages of the delivery shall be covered by such a contract if the delivery of raw milk is made through one or more collectors.

Status: Point in time view as at 17/12/2013.

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For the purposes of this Article, a "collector" means an undertaking which transports raw milk from a farmer or another collector to a processor of raw milk or another collector, where the ownership of the raw milk is transferred in each case.

- 2 The contract and/or the offer for a contract referred to in paragraph 1 shall:
- a be made in advance of the delivery,
 - b be made in writing, and
 - c include, in particular, the following elements:
 - (i) the price payable for the delivery, which shall:
 - be static and be set out in the contract, and/or
 - be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions, the volume delivered and the quality or composition of the raw milk delivered,
 - (ii) the volume of raw milk which may and/or must be delivered and the timing of such deliveries,
 - (iii) the duration of the contract, which may include either a definite or an indefinite duration with termination clauses,
 - (iv) details regarding payment periods and procedures,
 - (v) arrangements for collecting or delivering raw milk, and
 - (vi) rules applicable in the event of force majeure.

3 By way of derogation from paragraph 1, a contract and/or an offer for a contract shall not be required where raw milk is delivered by a farmer to a co-operative of which the farmer is a member if the statutes of that cooperative or the rules and decisions provided for in or derived from these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 2.

4 All elements of contracts for the delivery of raw milk concluded by farmers, collectors or processors of raw milk, including the elements referred to in point (c) of paragraph 2, shall be freely negotiated between the parties.

Notwithstanding the first subparagraph, one or both of the following shall apply:

- a where a Member State decides to make a written contract for the delivery of raw milk compulsory in accordance with paragraph 1, it may establish a minimum duration, applicable only to written contracts between a farmer and the first purchaser of raw milk; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market;
- b where a Member State decides that the first purchaser of raw milk must make a written offer for a contract to the farmer in accordance with paragraph 1, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market.

The second subparagraph shall be without prejudice to the farmer's right to refuse such a minimum duration provided that he does so in writing. In such a case, the parties shall be free to negotiate all elements of the contract, including the elements referred to in point (c) of paragraph 2.

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Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

5 The Member States which make use of the options referred to in this Article shall notify the Commission of how they are applied.

6 The Commission may adopt implementing acts laying down measures necessary for the uniform application of points (a) and (b) of paragraph 2 and paragraph 3 of this Article and measures relating to notifications to be made by the Member States in accordance with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 149

Contractual negotiations in the milk and milk products sector

1 A producer organisation in the milk and milk products sector which is recognised under Article 152(3) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the third subparagraph of Article 148(1).

2 The negotiations by the producer organisation may take place:

- a whether or not there is a transfer of ownership of the raw milk by the farmers to the producer organisation;
- b whether or not the price negotiated is the same as regards the joint production of some or all of the farmer members;
- c provided that, for a particular producer organisation, all of the following conditions are fulfilled:
 - (i) the volume of raw milk covered by such negotiations does not exceed 3,5 % of total Union production,
 - (ii) the volume of raw milk covered by such negotiations which is produced in any particular Member State does not exceed 33 % of the total national production of that Member State, and
 - (iii) the volume of raw milk covered by such negotiations which is delivered in any particular Member State does not exceed 33 % of the total national production of that Member State;
- d provided that the farmers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf; however, Member States may derogate from this condition in duly justified cases where farmers hold two distinct production units located in different geographic areas;
- e provided that the raw milk is not covered by an obligation to deliver arising from the farmer's membership of a cooperative in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and
- f provided that the producer organisation notifies the competent authorities of the Member State or Member States in which it operates of the volume of raw milk covered by such negotiations.

3 Notwithstanding the conditions set out in of point (c)(ii) and (iii) of paragraph 2, a producer organisation may negotiate pursuant to paragraph 1 provided that, with regard to that producer organisation, the volume of raw milk covered by the negotiations which is produced in or delivered in a Member State having a total annual raw milk production of less than 500 000 tonnes does not exceed 45 % of the total national production of that Member State.

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Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

4 For the purposes of this Article, references to producer organisations include associations of such producer organisations.

5 For the purposes of applying point (c) of paragraph 2 and paragraph 3, the Commission shall publish, by such means as it considers appropriate, the amounts of raw milk production in the Union and the Member States using the most up-to-date information available.

6 By way of derogation from point (c) of paragraph 2 and paragraph 3, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition from being excluded or in order to avoid seriously damaging SME processors of raw milk in its territory.

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

7 For the purposes of this Article:

- a a "national competition authority" means the authority referred to in Article 5 of Council Regulation (EC) No 1/2003⁽¹⁷⁾;
- b a "SME" means a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC.

8 The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (f) of paragraph 2 and of paragraph 6.

Article 150

Regulation of supply for cheese with a protected designation of origin or protected geographical indication

1 Upon the request of a producer organisation recognised under Article 152(3), an interbranch organisation recognised under Article 157(3) or a group of operators referred to in Article 3(2) of Regulation (EU) No 1151/2012, Member States may lay down, for a limited period of time, binding rules for the regulation of the supply of cheese benefiting from a protected designation of origin or from a protected geographical indication under Article 5(1) and (2) of Regulation (EU) No 1151/2012.

2 The rules referred to in paragraph 1 of this Article shall be subject to the existence of a prior agreement between the parties in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012. Such an agreement shall be concluded between at least two-thirds of the milk producers or their representatives representing at least two thirds of the raw milk used for the production of the cheese referred to in paragraph 1 of this Article and, where relevant, at least two-thirds of the producers of that cheese representing at least two thirds of the production of that cheese in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012.

3 For the purpose of paragraph 1, concerning cheese benefiting from a protected geographical indication, the geographical area of origin of the raw milk, as set in the product

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specification for the cheese, shall be the same as the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012 relating to that cheese.

- 4 The rules referred to in paragraph 1:
- a shall only cover the regulation of supply of the product concerned and shall have the aim of adapting the supply of that cheese to demand;
 - b shall have effect only on the product concerned;
 - c may be made binding for no more than three years and may be renewed after this period, following a new request, as referred to in paragraph 1;
 - d shall not damage the trade in products other than those concerned by those rules;
 - e shall not relate to any transaction after the first marketing of the cheese concerned;
 - f shall not allow for price fixing, including where prices are set for guidance or recommendation;
 - g shall not render unavailable an excessive proportion of the product concerned that would otherwise be available;
 - h shall not create discrimination, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected;
 - i shall contribute to maintaining the quality and/or the development of the product concerned;
 - j shall be without prejudice to Article 149.

5 The rules referred to in paragraph 1 shall be published in an official publication of the Member State concerned.

6 Member States shall carry out checks in order to ensure that the conditions laid down in paragraph 4 are complied with, and, where it has been found by the competent national authorities that such conditions have not been complied with, shall repeal the rules referred to in paragraph 1.

7 Member States shall notify the Commission forthwith of the rules referred to in paragraph 1 which they have adopted. The Commission shall inform other Member States of any notification of such rules.

8 The Commission may at any time adopt implementing acts requiring that a Member State repeal the rules laid down by that Member State pursuant to paragraph 1 if the Commission finds that those rules do not comply with the conditions laid down in paragraph 4, prevent or distort competition in a substantial part of the internal market or jeopardise free trade or the attainment of the objectives of Article 39 TFEU. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3) of this Regulation.

Article 151

Compulsory declarations in the milk and milk products sector

From 1 April 2015, the first purchasers of raw milk shall declare to the competent national authority the quantity of raw milk that has been delivered to them each month.

For the purposes of this Article and Article 148, a "first purchaser" means an undertaking or group which buys milk from producers in order to:

- (a) subject it to collecting, packing, storing, chilling or processing, including under a contract;

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(b) sell it to one or more undertakings treating or processing milk or other milk products.

Member States shall notify the Commission of the quantity of raw milk referred to in the first subparagraph.

The Commission may adopt implementing acts laying down rules on the content, format and timing of such declarations and measures relating to the notifications to be made by the Member States in accordance with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER III

Producer organisations and associations and interbranch organisations

Section 1

Definition and recognition

Article 152

Producer organisations

- 1 Member States may, on request, recognise producer organisations, which:
 - a are constituted, and controlled in accordance with point (c) of Article 153(2), by producers in a specific sector listed in Article 1(2);
 - b are formed on the initiative of the producers;
 - c pursue a specific aim which may include at least one of the following objectives:
 - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
 - (ii) concentration of supply and the placing on the market of the products produced by its members, including through direct marketing;
 - (iii) optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices;
 - (iv) carrying out research and developing initiatives on sustainable production methods, innovative practices, economic competitiveness and market developments;
 - (v) promoting, and providing technical assistance for, the use of environmentally sound cultivation practices and production techniques, and sound animal welfare practices and techniques;
 - (vi) promoting, and providing technical assistance for, the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label;
 - (vii) the management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;

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- (viii) contributing to a sustainable use of natural resources and to climate change mitigation;
- (ix) developing initiatives in the area of promotion and marketing;
- (x) managing of the mutual funds referred to in operational programmes in the fruit and vegetables sector referred to in Article 31(2) of this Regulation and under Article 36 of Regulation (EU) No 1305/2013
- (xi) providing the necessary technical assistance for the use of the futures markets and of insurance schemes.

2 A producer organisation recognised under paragraph 1 may continue to be recognised if it engages in the marketing of products falling within CN code ex 2208 other than those referred to in Annex I to the Treaties, provided that the proportion of such products does not exceed 49 % of the total value of marketed production of the producer organisation and that such products do not benefit from Union support. Those products do not count, for producer organisations in the fruit and vegetables sector, towards the calculation of the value of marketed production for the purposes of Article 34(2).

3 By way of derogation from paragraph 1, Member States shall recognise producer organisations, constituted by producers in the milk and milk products sector, which:

- a are formed on the initiative of the producers;
- b pursue a specific aim which may include one or more of the following objectives:
 - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
 - (ii) concentration of supply and the placing on the market of the products produced by its members;
 - (iii) optimising production costs and stabilising producer prices.

Article 153

Statutes of producer organisations

1 The statutes of a producer organisation shall require its producer members, in particular, to:

- a apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
- b be members of only one producer organisation for any given product of the holding; however Member States may derogate from this condition in duly justified cases where producer members hold two distinct production units located in different geographical areas;
- c provide the information requested by the producer organisation for statistical purposes.

2 The statutes of a producer organisation shall also provide for:

- a procedures for determining, adopting and amending the rules referred to in point (a) of paragraph 1;
- b the imposition on members of financial contributions needed to finance the producer organisation;

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- c rules enabling the producer members to scrutinise democratically their organisation and its decisions;
 - d penalties for infringement of obligations under the statutes, particularly for non-payment of financial contributions, or of the rules laid down by the producer organisation;
 - e rules on the admission of new members, and in particular the minimum period of membership which may not be less than one year;
 - f the accounting and budgetary rules necessary for the operation of the organisation.
- 3 Paragraphs 1 and 2 shall not apply to producer organisations in the milk and milk products sector.

Article 154

Recognition of producer organisations

- 1 In order to be recognised by a Member State, the producer organisation applying for such recognition shall be a legal entity or clearly defined part of a legal entity which:
- a fulfils the requirements laid down in points (a), (b) and (c) of Article 152(1);
 - b has a minimum number of members and/or covers a minimum volume or value of marketable production, to be laid down by the Member State concerned, in the area where it operates;
 - c provides sufficient evidence that it can carry out its activities properly, both over time and in terms of effectiveness, provision of human, material and technical support to its members, and as appropriate concentration of supply;
 - d has statutes that are consistent with points (a), (b) and (c) of this paragraph.
- 2 Member States may decide that producer organisations which have been recognised before 1 January 2014 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are deemed to be recognised as producer organisations pursuant to Article 152.
- 3 Producer organisations which have been recognised before 1 January 2014 on the basis of national law and which do not fulfil the conditions laid down in paragraph 1 may continue to exercise their activities under national law until 1 January 2015.
- 4 Member States shall:
- a decide whether to grant recognition to a producer organisation within four months of the lodging of an application, accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;
 - b carry out, at intervals to be determined by them, checks to verify that recognised producer organisations are complying with this Chapter;
 - c in the event of non-compliance or irregularities in the application of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties they have laid down and, if necessary, decide whether recognition should be withdrawn;
 - d inform the Commission by 31 March of each year, of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.

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Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 155

Outsourcing

Member States may permit a recognised producer organisation or a recognised association of producer organisations in the sectors specified by the Commission in accordance with point (f) of Article 173(1) to outsource any of its activities other than production, including to subsidiaries, provided that the producer organisation or association of producer organisations remains responsible for ensuring the carrying out of the outsourced activity and overall management control and supervision of the commercial arrangement for the carrying out of the activity.

Article 156

Associations of producer organisations

1 Member States may, on request, recognise associations of producer organisations in a specific sector listed in Article 1(2) which are formed at the initiative of recognised producer organisations.

Subject to the rules adopted pursuant to Article 173, associations of producer organisations may carry out any of the activities or functions of producer organisations.

2 By way of derogation from paragraph 1, Member States may, on request, recognise an association of recognised producer organisations in the milk and milk products sector if the Member State concerned considers that the association is capable of carrying out effectively any of the activities of a recognised producer organisation, and that it fulfils the conditions laid down in Article 161(1).

Article 157

Interbranch organisations

1 Member States may, on request, recognise interbranch organisations in a specific sector listed in Article 1(2) which:

- a are constituted of representatives of economic activities linked to the production and to at least one of the following stages of the supply chain: the processing of or trade in, including distribution of, products in one or more sectors;
- b are formed on the initiative of all or some of the organisations or associations which constitute them;
- c pursue a specific aim taking account of the interests of their members and of consumers, which may include, in particular, one of the following objectives:
 - (i) improving knowledge and the transparency of production and the market, including by publication of aggregated statistical data on production costs, prices, including, where appropriate, price indices, volumes and duration of contracts which have been previously concluded, and by providing analyses of potential future market developments at regional, national or international level;
 - (ii) forecasting of production potential, and recording public market prices;

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- (iii) helping to coordinate better the way the products are placed on the market, in particular by means of research and market studies;
- (iv) exploring potential export markets;
- (v) without prejudice to Articles 148 and 168, drawing up standard forms of contract, compatible with Union rules, for the sale of agricultural products to purchasers and/or the supply of processed products to distributors and retailers, taking into account the need to achieve fair competitive conditions and to avoid market distortions;
- (vi) exploiting to a fuller extent the potential of the products, including at the level of market outlets, and developing initiatives to strengthen economic competitiveness and innovation;
- (vii) providing the information and carrying out the research necessary to innovate, rationalise, improve and adjust production and, where applicable, the processing and marketing, towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality, including the specific characteristics of products with a protected designation of origin or a protected geographical indication, and protection of the environment;
- (viii) seeking ways of restricting the use of animal-health or plant protection products, better managing other inputs, ensuring product quality and soil and water conservation, promoting food safety, in particular through traceability of products, and improving animal health and welfare;
- (ix) developing methods and instruments for improving product quality at all stages of production and, where applicable, of processing and marketing;
- (x) taking all possible actions to uphold, protect and promote organic farming and designations of origin, quality labels and geographical indications;
- (xi) promoting and carrying out research into integrated, sustainable production or other environmentally sound production methods;
- (xii) encouraging healthy and responsible consumption of the products on the internal market and/or informing about the harm linked to hazardous consumption patterns;
- (xiii) promoting consumption of, and/or furnishing information concerning, products on the internal market and external markets;
- (xiv) contributing to the management of by-products and the reduction and management of waste.

2 In duly justified cases, Member States may decide on the basis of objective and non-discriminatory criteria that the condition in point (c) of Article 158(1) is fulfilled by limiting the number of interbranch organisations on a regional or national level if so provided for by national rules in place before 1 January 2014, and where this does not impair the proper functioning of the internal market.

3 By way of derogation from paragraph 1, as regards the milk and milk products sector, Member States may recognise interbranch organisations which:

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- a have formally requested recognition and are made up of representatives of economic activities linked to the production of raw milk and linked to at least one of the following stages of the supply chain: the processing of or trade in, including distribution of, products of the milk and milk products sector;
- b are formed on the initiative of all or some of the representatives referred to in point (a);
- c carry out, in one or more regions of the Union, taking into account the interests of the members of those interbranch organisations and of consumers, one or more of the following activities:
 - (i) improving the knowledge and the transparency of production and the market, including by publication of statistical data on the prices, volumes and durations of contracts for the delivery of raw milk which have been previously concluded, and by providing analyses of potential future market developments at regional, national and international level;
 - (ii) helping to coordinate better the way the products of the milk and milk products sector are placed on the market, in particular by means of research and market studies;
 - (iii) promoting consumption of, and providing information on, milk and milk products in both internal and external markets;
 - (iv) exploring potential export markets;
 - (v) drawing up standard forms of contract compatible with Union rules for the sale of raw milk to purchasers or the supply of processed products to distributors and retailers, taking into account the need to achieve fair competitive conditions and to avoid market distortions;
 - (vi) providing the information and carrying out the research necessary to adjust production in favour of products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;
 - (vii) maintaining and developing the production potential of the dairy sector, inter alia, by promoting innovation and supporting programmes for applied research and development in order to exploit the full potential of milk and milk products, especially in order to create products with added value which are more attractive to the consumer;
 - (viii) seeking ways of restricting the use of animal health products, improving the management of other inputs and enhancing food safety and animal health;
 - (ix) developing methods and instruments for improving product quality at all stages of production and marketing;
 - (x) exploiting the potential of organic farming and protecting and promoting such farming as well as the production of products with designations of origin, quality labels and geographical indications; and
 - (xi) promoting integrated production or other environmentally sound production methods.

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Article 158

Recognition of interbranch organisations

1 Member States may recognise interbranch organisations applying for such recognition, provided that they:

- a fulfil the requirements laid down in Article 157;
- b carry out their activities in one or more regions in the territory concerned;
- c account for a significant share of the economic activities referred to in point (a) of Article 157(1);
- d with the exception of the cases laid down in Article 162, do not, themselves, engage in production, processing or trade.

2 Member States may decide that interbranch organisations which have been recognised before 1 January 2014 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are deemed to be recognised as interbranch organisations pursuant to Article 157.

3 Interbranch organisations which have been recognised before 1 January 2014 on the basis of national law and which do not fulfil the conditions laid down in paragraph 1 of this Article may continue to exercise their activities under national law until 1 January 2015.

4 Member States may recognise interbranch organisations in all sectors existing prior to 1 January 2014, whether they were recognised on request or established by law, even though they do not fulfil the condition laid down in point (b) of Article 157(1) or in point (b) of Article 157(3).

5 Where Member States recognise an interbranch organisation in accordance with paragraph 1 or 2, they shall:

- a decide whether to grant recognition within four months of the lodging of an application with all relevant supporting documents; this application shall be lodged with the Member State where the organisation has its headquarters;
- b carry out, at intervals to be determined by them, checks to verify that recognised interbranch organisations are complying with the conditions governing their recognition;
- c in the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, impose on those organisations the applicable penalties they have laid down and, if necessary, decide whether recognition should be withdrawn;
- d withdraw recognition if the requirements and conditions for recognition laid down in this Article are no longer met;
- e inform the Commission by 31 March of each year of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.

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Section 2

Additional rules for specific sectors

Article 159

Obligatory recognition

By way of derogation from Articles 152 to 158, Member States shall, on request, recognise:

- (a) producer organisations in:
 - (i) the fruit and vegetables sector in respect of one or more products of that sector and/or such products solely intended for processing,
 - (ii) the olive oil and table olives sector,
 - (iii) the silkworm sector,
 - (iv) the hops sector;
- (b) interbranch organisations in the olive oil and table olives sector and the tobacco sector.

Article 160

Producer organisations in the fruit and vegetables sector

In the fruit and vegetables sector producer organisations shall pursue at least one of the objectives set out in points (c)(i), (ii) and (iii) of Article 152(1).

The statutes of a producer organisation in the fruit and vegetables sector shall require its producer members to market their entire production concerned through the producer organisation.

Producer organisations and associations of producer organisations in the fruit and vegetables sector shall be deemed to be acting in the name and on behalf of their members in economic matters within their terms of reference.

Article 161

Recognition of producer organisations in the milk and milk products sector

1 Member States shall recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of legal entities applying for such recognition, provided that:

- a they fulfil the requirements laid down in Article 152(3);
- b they have a minimum number of members and/or cover a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where they operate;
- c there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply;
- d they have statutes that are consistent with points (a), (b) and (c) of this paragraph.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

2 Member States may decide that producer organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are to be considered to be recognised as producer organisations pursuant to Article 152(3).

3 Member States shall:

- a decide whether to grant recognition to a producer organisation within four months of the lodging of an application, accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;
- b carry out, at intervals to be determined by them, checks to verify that recognised producer organisations and associations of producer organisations are complying with the provisions of this Chapter;
- c in the event of non-compliance or irregularities in the implementation of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties that they have laid down and, if necessary, decide whether recognition should be withdrawn;
- d inform the Commission by 31 March of each year of every decision to grant, refuse or withdraw recognition which they have taken during the previous calendar year.

Article 162

Interbranch organisations in the olive oil and table olives and tobacco sectors

For interbranch organisations in the olive oil and table olives and tobacco sectors, the specific aim referred to in point (c) of Article 157(1) may also include at least one of the following objectives:

- (a) concentrating and co-ordinating supply and marketing of the produce of the members;
- (b) adapting production and processing jointly to the requirements of the market and improving the product;
- (c) promoting the rationalisation and improvement of production and processing.

Article 163

Recognition of interbranch organisations in the milk and milk products sector

1 Member States may recognise interbranch organisations in the milk and milk products sector provided that such organisations:

- a fulfil the requirements laid down in Article 157(3);
- b carry out their activities in one or more regions in the territory concerned;
- c account for a significant share of the economic activities referred to in point (a) of Article 157(3);
- d do not themselves engage in the production of, the processing of, or the trade in, products in the milk and milk products sector.

2 Member States may decide that interbranch organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 are to be considered to be recognised as interbranch organisations under Article 157(3).

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

3 Where Member States make use of the option to recognise an interbranch organisation in accordance with paragraph 1 or 2, they shall:

- a decide whether to grant recognition to the interbranch organisation within four months of the lodging of an application, accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;
- b carry out, at intervals to be determined by them, checks to verify that recognised interbranch organisations are complying with the conditions governing their recognition;
- c in the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, impose on those organisations the applicable penalties they have laid down and, if necessary, decide whether recognition should be withdrawn;
- d withdraw recognition if:
 - (i) the requirements and conditions for recognition laid down in this Article are no longer fulfilled;
 - (ii) the interbranch organisation takes part in any of the agreements, decisions and concerted practices referred to in Article 210(4); such withdrawal of recognition shall be without prejudice to any other penalties to be imposed pursuant to national law;
 - (iii) the interbranch organisation fails to comply with the notification obligation referred to in point (a) of the first subparagraph of Article 210(2);
- e inform the Commission by 31 March of each year of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.

Section 3

Extension of rules and compulsory contributions

Article 164

Extension of rules

1 In cases where a recognised producer organisation, a recognised association of producer organisations or a recognised interbranch organisation operating in a specific economic area or areas of a Member State is considered to be representative of the production of or trade in, or processing of, a given product, the Member State concerned may, at the request of that organisation, make binding for a limited period of time some of the agreements, decisions or concerted practices agreed within that organisation on other operators acting in the economic area or areas in question, whether individuals or groups, who do not belong to the organisation or association.

2 For the purposes of this Section, an "economic area" means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.

3 An organisation or association shall be deemed representative where, in the economic area or areas concerned of a Member State, it accounts for:

- a as a proportion of the volume of production of, or of trade in, or of processing of the product or products concerned:

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- (i) for producer organisations in the fruit and vegetables sector, at least 60 %, or
- (ii) in other cases, at least two thirds; and
- b in the case of producer organisations, more than 50 % of the producers concerned.

However, where, in the case of interbranch organisations, the determination of the proportion of the volume of production, or of trade in, or of processing of the product or products concerned gives rise to practical difficulties, a Member State may lay down national rules for determining the specified level of representativeness referred to in point (a)(ii) of the first subparagraph.

Where the request for an extension of its rules to other operators covers more than one economic area, the organisation or association shall demonstrate the minimum level of representativeness as defined in the first subparagraph for each of the branches it groups in each of the economic areas concerned.

4 The rules for which extension to other operators may be requested as provided for in paragraph 1 shall have one of the following aims:

- a production and market reporting;
- b stricter production rules than those laid down in Union or national rules;
- c the drawing up of standard contracts which are compatible with Union rules;
- d marketing;
- e protecting the environment;
- f measures to promote and exploit the potential of products;
- g measures to protect organic farming as well as designations of origin, quality labels and geographical indications;
- h research to add value to the products, in particular through new uses which do not pose a threat to public health;
- i studies to improve the quality of products;
- j research, in particular into methods of cultivation permitting reduced use of plant protection or animal health products and guaranteeing conservation of the soil and conservation or improvement of the environment;
- k the definition of minimum qualities and definition of minimum standards of packing and presentation;
- l the use of certified seed and monitoring of product quality;
- m animal health, plant health or food safety;
- n the management of by-products.

Those rules shall not cause any damage to other operators in the Member State concerned or the Union and shall not have any of the effects listed in Article 210(4) or be otherwise incompatible with Union law or national rules in force.

5 The extension of the rules referred to in paragraph 1 shall be brought to the attention of operators by publication in full in an official publication of the Member State concerned.

6 Member States shall notify the Commission of any decisions taken under this Article.

Status: Point in time view as at 17/12/2013.

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Article 165

Financial contributions of non-members

Where rules of a recognised producer organisation, a recognised association of producer organisations or a recognised interbranch organisation are extended under Article 164 and the activities covered by those rules are in the general economic interest of economic operators whose activities relate to the products concerned, the Member State which has granted recognition may, after consulting the relevant stakeholders, decide that individual economic operators or groups which are not members of the organisation but which benefit from those activities shall pay the organisation all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.

Section 4

Adjustment of supply

Article 166

Measures to facilitate the adjustment of supply to market requirements

In order to encourage action by the organisations referred to in Articles 152 to 163 to facilitate the adjustment of supply to market requirements, with the exception of action relating to withdrawal from the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning measures in the sectors listed in Article 1(2):

- (a) improving quality;
- (b) promoting better organisation of production, processing and marketing;
- (c) facilitating the recording of market price trends;
- (d) permitting the establishment of short and long-term forecasts on the basis of the means of production used.

Article 167

Marketing rules to improve and stabilise the operation of the common market in wines

1 In order to improve and stabilise the operation of the common market in wines, including the grapes, musts and wines from which they derive, producer Member States may lay down marketing rules to regulate supply, particularly by way of decisions taken by interbranch organisations recognised under Articles 157 and 158.

Such rules shall be proportionate to the objective pursued and shall not:

- a relate to any transaction after the first marketing of the produce concerned;
- b allow for price fixing, including where prices are set for guidance or recommendation;

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- c render unavailable an excessive proportion of the vintage that would otherwise be available;
 - d provide scope for refusing to issue the national and Union certificates required for the circulation and marketing of wines where such marketing is in accordance with those rules.
- 2 The rules provided for in paragraph 1 shall be brought to the attention of operators by being published in full in an official publication of the Member State concerned.
- 3 Member States shall notify the Commission of any decisions taken under this Article.

Section 5

Contract systems

Article 168

Contractual relations

1 Without prejudice to Article 148 concerning the milk and milk products sector and Article 125 concerning the sugar sector, if a Member State decides, in respect of agricultural products from a sector listed in Article 1(2), other than milk and milk products and sugar:

- a that every delivery in its territory of those products by a producer to a processor or distributor must be covered by a written contract between the parties; and/or
- b that the first purchasers must make a written offer for a contract for the delivery in its territory of those agricultural products by the producer,

such a contract or such an offer for a contract shall fulfil the conditions laid down in paragraphs 4 and 6 of this Article.

2 Where the Member State decides that deliveries of the products covered by this Article by a producer to a processor must be covered by a written contract between the parties, it shall also decide which stage or stages of the delivery shall be covered by such a contract if delivery of the products concerned is made through one or more intermediaries.

Member States shall ensure that the provisions that they adopt under this Article do not impair the proper functioning of the internal market.

3 In the case described in paragraph 2, the Member State may establish a mediation mechanism to cover cases in which there is no mutual agreement to conclude such a contract, thereby ensuring fair contractual relations.

- 4 Any contract or offer for a contract referred to in paragraph 1 shall:
- a be made in advance of the delivery;
 - b be made in writing; and
 - c include, in particular, the following elements:
 - (i) the price payable for the delivery, which shall:
 - be static and be set out in the contract, and/or
 - be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions, the quantities delivered and the quality or composition of the agricultural products delivered,

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- (ii) the quantity and quality of the products concerned which may or must be delivered and the timing of such deliveries,
- (iii) the duration of the contract, which may include either a definite duration or an indefinite duration with termination clauses,
- (iv) details regarding payment periods and procedures,
- (v) arrangements for collecting or delivering the agricultural products, and
- (vi) rules applicable in the event of force majeure.

5 By way of derogation from paragraph 1, a contract or an offer for a contract shall not be required where the products concerned are delivered by a producer to a purchaser which is a cooperative of which the producer is a member if the statutes of that cooperative or the rules and decisions provided for in, or derived from, these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 4.

6 All elements of contracts for the delivery of agricultural products concluded by producers, collectors, processors or distributors, including those elements referred to in point (c) of paragraph 4, shall be freely negotiated between the parties.

Notwithstanding the first subparagraph, one or both of the following shall apply:

- a where a Member State decides to make written contracts for the delivery of agricultural products compulsory in accordance with paragraph 1, it may establish a minimum duration, applicable only to written contracts between a producer and the first purchaser of the agricultural products. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market;
- b where a Member State decides that the first purchaser of agricultural products must make the producer a written offer for a contract in accordance with paragraph 1, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market.

The second subparagraph shall be without prejudice to the producer's right to refuse such a minimum duration provided that he does so in writing. In this case, the parties shall be free to negotiate all elements of the contract, including those elements referred to in point (c) of paragraph 4.

7 Member States which make use of the options referred to in this Article shall ensure that the provisions set in place do not impair the proper functioning of the internal market.

Member States shall notify the Commission of how they apply any measures introduced under this Article.

8 The Commission may adopt implementing acts laying down the measures necessary for the uniform application of points (a) and (b) of paragraph 4 and paragraph 5 of this Article and measures relating to notifications to be made by the Member States in accordance with this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

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Article 169

Contractual negotiations in the olive oil sector

1 A producer organisation in the olive oil sector which is recognised under Article 152(1) and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs, may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of olive oil.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU.

This could be realised provided that:

- a the producer organisation carries out at least one of the following activities:
 - (i) joint distribution, including joint selling platform or joint transportation;
 - (ii) joint packaging, labelling or promotion;
 - (iii) joint organising of quality control;
 - (iv) joint use of equipment or storage facilities;
 - (v) joint processing;
 - (vi) joint management of waste directly related to the production of olive oil;
 - (vii) joint procurement of inputs;
 - b these activities are significant in terms of volume of olive oil concerned and in terms of cost of the production and placing of the product on the market.
- 2 The negotiations by the recognised producer organisation may take place:
- a whether or not there is a transfer of ownership of the olive oil in question by the producers to the producer organisation;
 - b whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;
 - c provided that, for a particular producer organisation, the volume of olive oil production covered by such negotiations which is produced in any particular Member State does not exceed 20 % of the relevant market; for the purpose of calculating that volume, a distinction shall be made between olive oil for human consumption and olive oil for other uses;
 - d provided that, for the volume of olive oil covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;
 - e provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;
 - f provided that the olive oil in question is not covered by an obligation to supply arising from the producer's membership of a cooperative, which is not itself a member of the concerned producer organisation, in accordance with the conditions set out in the

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cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and

- g provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the volume of olive oil production covered by such negotiations.

3 For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 156(1).

4 For the purposes of applying point (c) of paragraph 2, the Commission shall publish, by such means as it considers appropriate, the volume of olive oil production in Member States.

5 By way of derogation from point (c) of paragraph 2, even where the threshold set out therein is not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded or if it finds that the objectives of Article 39 TFEU are jeopardised.

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

For the purposes of this Article, the definition of "national competition authority" in point (a) of Article 149(7) shall apply.

6 The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5.

Article 170

Contractual negotiations in the beef and veal sector

1 A producer organisation in the beef and veal sector which is recognised under Article 152(1) and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of live cattle of genus *Bos taurus* for slaughter falling within CN codes ex 0102 29 21, ex 0102 29 41, ex 0102 29 51, ex 0102 29 61, or ex 0102 29 91:

- a aged less than 12 months; and
- b aged from 12 months and older.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU.

This could be realised provided that:

- a the producer organisation carries out at least one of the following activities:

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- (i) joint distribution, including joint selling platform or joint transportation;
 - (ii) joint promotion;
 - (iii) joint organising of quality control;
 - (iv) joint use of equipment or storage facilities;
 - (v) joint management of waste directly related to the production of live cattle;
 - (vi) joint procurement of inputs;
- b these activities are significant in terms of quantity of beef and veal concerned and in terms of cost of the production and placing of the product on the market.
- 2 The negotiations by the recognised producer organisation may take place:
- a whether or not there is a transfer of ownership by the farmers to the producer organisation;
 - b whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;
 - c provided that, for a particular producer organisation, the quantity of beef and veal production covered by such negotiations which is produced in any particular Member State does not exceed 15 % of the total national production of each product referred to in (a) and (b) of the first subparagraph of paragraph 1 of that Member State expressed in carcass weight equivalent;
 - d provided that, for the quantity of beef and veal covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;
 - e provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;
 - f provided that the product in question is not covered by an obligation to supply arising from the producer's membership of a cooperative, which is not itself a member of the concerned producer organisation, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and
 - g provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the quantity of beef and veal production covered by such negotiations.
- 3 For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 156(1).
- 4 For the purposes of applying point (c) of paragraph 2, the Commission shall publish, by such means as it considers appropriate, the quantity of beef and veal production in Member States expressed in carcass weight equivalent.
- 5 By way of derogation from point (c) of paragraph 2, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded or it finds that the product covered by the negotiations forms part of a separate market by virtue of the specific characteristics of the product or its intended use and that such collective negotiation would cover more than 15 % of the national production of such market, or if it finds that the objectives of Article 39 TFEU are jeopardised.

Status: Point in time view as at 17/12/2013.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

For the purposes of this Article, the definition of "national competition authority" in point (a) of Article 149(7) shall apply.

6 The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5.

Article 171

Contractual negotiations for certain arable crops

1 A producer organisation which is recognised under Article 152(1) and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs, may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of one or more of the following products not intended for sowing and in the case of barley not intended for malting:

- a common wheat falling within CN code ex 1001 99 00;
- b barley falling within CN code ex 1003 90 00;
- c maize falling within CN code 1005 90 00;
- d rye falling within CN code 1002 90 00;
- e durum wheat falling within CN code 1001 19 00;
- f oats falling within CN code 1004 90 00;
- g triticale falling within CN code ex 1008 60 00;
- h rapeseed falling within CN code ex 1205;
- i sunflower seed falling within CN code ex 1206 00;
- j soya beans falling within CN code 1201 90 00;
- k field beans falling within CN codes ex 0708 and ex 0713;
- l field peas falling within CN codes ex 0708 and ex 0713.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU.

This could be realised provided that:

- a the producer organisation carries out at least one of the following activities:
 - (i) joint distribution, including joint selling platform or joint transportation;
 - (ii) joint promotion;
 - (iii) joint organising of quality control;
 - (iv) joint use of equipment or storage facilities;

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- (v) joint procurement of inputs:
- b these activities are significant in terms of quantity of the product concerned and in terms of cost of the production and placing of the product on the market.
- 2 The negotiations by the recognised producer organisation may take place:
- a whether or not there is a transfer of ownership by the producers to the producer organisation;
- b whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;
- c provided that, for each product referred to in paragraph 1 and for a particular producer organisation, the quantity of production covered by such negotiations which is produced in any particular Member State does not exceed 15 % of the total national production of that product in the Member State concerned;
- d provided that, for the quantity of products covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;
- e provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;
- f provided that the product in question is not covered by an obligation to supply arising from the producer's membership of a cooperative, which is not itself a member of the concerned producer organisation, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and
- g provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the quantity of production for each product covered by such negotiations.
- 3 For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 156(1).
- 4 For the purposes of applying point (c) of paragraph 2, the Commission shall publish for the products referred to in paragraph 1, by such means as it considers appropriate, the quantity of production in Member States.
- 5 By way of derogation from point (c) of paragraph 2, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded, or it finds that the product covered by the negotiations forms part of a separate market by virtue of the specific characteristics of the product or its intended use and that such collective negotiation would cover more than 15 % of the national production of such market, or if it finds that the objectives of Article 39 TFEU are jeopardised.
- For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.
- The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.
- For the purposes of this Article, the definition of "national competition authority" in point (a) of Article 149(7) shall apply.

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6 The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5.

Article 172

Regulation of supply for ham with a protected designation of origin or protected geographical indication

1 Upon the request of a producer organisation recognised under Article 152(1) of this Regulation, an interbranch organisation recognised under Article 157(1) of this Regulation or a group of operators referred to in Article 3(2) of Regulation (EU) No 1151/2012, Member States may lay down, for a limited period of time, binding rules for the regulation of the supply of ham benefiting from a protected designation of origin or from a protected geographical indication under Article 5(1) and (2) of Regulation (EU) No 1151/2012.

2 The rules referred to in paragraph 1 of this Article shall be subject to the existence of a prior agreement between the parties in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012. Such an agreement shall be concluded, after consultation with pig producers in the geographical area, between at least two thirds of the processors of that ham representing at least two thirds of the production of that ham in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012 and, if considered to be appropriate by the Member State, at least two thirds of the pig producers in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012.

3 The rules referred to in paragraph 1:

- a shall only cover the regulation of supply of the product concerned and/or its raw material and shall have the aim of adapting the supply of that ham to demand;
- b shall have effect only on the product concerned;
- c may be made binding for no more than three years and may be renewed after this period, following a new request, as referred to in paragraph 1;
- d shall not damage the trade in products other than those concerned by those rules;
- e shall not relate to any transaction after the first marketing of the ham concerned;
- f shall not allow for price fixing, including where prices are set for guidance or recommendation;
- g shall not render unavailable an excessive proportion of the product concerned that would otherwise be available;
- h shall not create discrimination, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected;
- i shall contribute to maintaining the quality and/or the development of the product concerned.

4 The rules referred to in paragraph 1 shall be published in an official publication of the Member State concerned.

5 Member States shall carry out checks in order to ensure that the conditions laid down in paragraph 3 are complied with, and, where it has been found by the competent national authorities that such conditions have not been complied with, shall repeal the rules referred to in paragraph 1.

6 Member States shall notify the Commission forthwith of the rules referred to in paragraph 1 which they have adopted. The Commission shall inform other Member States of any notification of such rules.

Status: Point in time view as at 17/12/2013.

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7 The Commission may at any time adopt implementing acts requiring that a Member State repeal the rules laid down by that Member State pursuant to paragraph 1 if the Commission finds that those rules do not comply with the conditions laid down in paragraph 4, prevent or distort competition in a substantial part of the internal market or jeopardise free trade or the attainment of the objectives of Article 39 TFEU. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3) of this Regulation.

Section 6

Procedural rules

Article 173

Delegated powers

1 In order to ensure that the objectives and responsibilities of producer organisations, associations of producer organisations and interbranch organisations are clearly defined so as to contribute to the effectiveness of the actions of such organisations and associations without resulting in undue administrative burden and without undermining the principle of freedom of association in particular toward non-members of such organisations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the following matters regarding producer organisations, associations of producer organisations, and interbranch organisations for one or more of the sectors referred to in Article 1(2), or specific products of those sectors:

- a the specific aims which may, must or must not be pursued by such organisations and associations and, where applicable, added to those laid down in Articles 152 to 163;
- b the rules of such organisations and associations, the statutes of organisations other than producer organisations, the specific conditions applicable to the statutes of producer organisations in certain sectors, including derogations from the obligation to market the entire production through the producer organisation referred to in the second paragraph of Article 160, the structure, membership period, size, accountability and activities of such organisations and associations, the effects deriving from recognition, the withdrawal of recognition, and mergers;
- c the conditions for recognition, withdrawal and suspension of recognition, the effects deriving from recognition, withdrawal and suspension of recognition as well as requirements for such organisations and associations to take remedial measures in the event of non-respect of the recognition criteria;
- d transnational organisations and associations including the rules referred to in points (a), (b) and (c) of this paragraph;
- e rules relating to the establishment and the conditions of administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation;
- f the sectors to which Article 161 applies, the conditions for the outsourcing of activities, the nature of activities that may be outsourced and the provision of technical means by organisations or associations;
- g the basis for the calculation of minimum volume or value of marketable production of organisations and associations;
- h the acceptance of members who are not producers in the case of producer organisations and who are not producer organisations in the case of associations of producer organisations;

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- i the extension of certain rules of the organisations provided for in Article 164 to non-members and the compulsory payment of subscriptions by non-members referred to in Article 165 including the use and allocation of that payment by those organisations and a list of the stricter production rules which may be extended under point (b) of the first subparagraph of Article 164(4), while ensuring that such organisations are transparent and accountable toward non-members and that members of such organisations do not enjoy a more favourable treatment than non-members, in particular as to the use of the compulsory payment of subscriptions;
 - j further requirements as regards representativeness of the organisations referred to in Article 164, the economic areas concerned, including Commission scrutiny of their definition, minimum periods during which the rules shall apply before their extension, the persons or organisations to whom the rules or contributions may be applied, and the circumstances in which the Commission may require that the extension of rules or compulsory contributions be refused or withdrawn.
- 2 By way of derogation from paragraph 1, in order to ensure that the objectives and responsibilities of producer organisations, associations of producer organisations and interbranch organisations in the milk and milk products sector are clearly defined, so as to contribute to the effectiveness of the actions of such organisations without imposing an undue burden, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:
- a the conditions for recognising transnational producer organisations and transnational associations of producer organisations;
 - b rules relating to the establishment and the conditions of administrative assistance to be given to producer organisations, including associations of producer organisations by the relevant competent authorities in the case of transnational cooperation;
 - c additional rules regarding the calculation of the volume of raw milk covered by the negotiations referred to in point (c) of Article 149(2) and Article 149(3);
 - d rules concerning the extension of certain rules of the organisations provided for in Article 164 to non-members and the compulsory payment of subscriptions by non-members referred to in Article 165.

Article 174

Implementing powers in accordance with the examination procedure

- 1 The Commission may adopt implementing acts laying down the measures necessary for the application of this Chapter, in particular:
- a measures for the implementation of the conditions for recognition of producer organisations and interbranch organisations set out in Articles 154 and 158;
 - b procedures in the event of a merger of producer organisations;
 - c procedures to be determined by Member States in relation to the minimum size and minimum membership period;
 - d procedures relating to the extension of rules and financial contributions as referred to in Articles 164 and 165, in particular the implementation of the concept of "economic area" referred to in Article 164(2);
 - e procedures relating to administrative assistance;
 - f procedures relating to the outsourcing of activities;
 - g procedures and technical conditions as regards the implementation of the measures referred to in Article 166.

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Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2 By way of derogation from paragraph 1, as regards the milk and the milk product sector, the Commission may adopt implementing acts laying down detailed rules necessary for:

- a the implementation of the conditions for recognition of producer organisations and their associations and interbranch organisations set out in Articles 161 and 163;
- b the notification referred to in point (f) of Article 149(2);
- c the notifications to be made by the Member States to the Commission in accordance with point (d) of Article 161(3), point (e) of Article 163(3), Article 149(8) and Article 150(7);
- d the procedures relating to administrative assistance in the case of transnational cooperation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 175

Other implementing powers

The Commission may, by means of implementing acts, adopt individual decisions regarding:

- (a) the recognition of organisations carrying out activities in more than one Member State, pursuant to the rules adopted under point (d) of Article 174(1);
- (b) the objection to, or the withdrawal of, recognition of an interbranch organisation by a Member State;
- (c) the list of economic areas notified by Member States pursuant to the rules adopted under point (h) of Article 174(1) and point (d) of Article 174(2);
- (d) the requirement that a Member State refuse or repeal an extension of rules or financial contributions by non-members decided on by that Member State.

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

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- (1) Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).
- (2) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).
- (3) Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).
- (4) OJ C 244, 1.10.2004, p. 2.
- (5) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).
- (6) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ L 204, 21.7.1998, p. 37).
- (7) Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ L 109, 6.5.2000, p. 29).
- (8) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (OJ L 39, 13.2.2008, p. 16).
- (9) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ L 299, 8.11.2008, p. 25).
- (10) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ L 78, 24.3.2009, p. 1).
- (11) Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1).
- (12) Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ L 118, 4.5.2002, p. 1).
- (13) OJ C 116, 14.4.2011, p. 12.
- (14) Council Directive 89/396/EEC of 14 June 1989 on indications or marks identifying the lot to which a foodstuff belongs (OJ L 186, 30.6.1989, p. 21).
- (15) Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC (OJ L 247, 21.9.2007, p. 17).
- (16) Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).
- (17) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 101 and 102 of the Treaty (OJ L 1, 4.1.2003, p. 1).

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